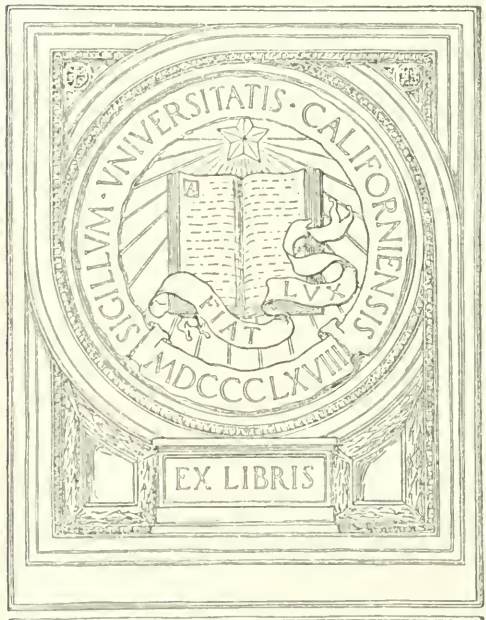
CITY OF LOS ANGELES
CITY ATTORNEY'S OFFICE

UNIVERSITY OF CALIFORNIA
AT LOS ANGELES



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THE CHARTER

OF THE

CITY OF BUFFALO

As amended from time to time since adoption in 1891 and as now in force

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Compiled and Annotated
BY
HENRY ADSIT BULL

PUBLISHED BY THE CITY
February, 1908

Hausauer-Jones Printing Co.,
Buffalo, N. Y.

JS
663
1908

COMPILER'S NOTE.

This compilation of the Charter (of which the last edition was issued in 1896) was begun unofficially in November. The City having assumed the publication, the completion of the work has been on the basis of public service and of preparation for assuming the duties of office.

The plan of this edition is to present every section in its present form, with as much of its history as possible. Reference to every amending act is made at the end of the section or subdivision amended; and where practicable, a note has been added, briefly describing the nature and effect of the amendment. Sections that have become obsolete because of their temporary character, repeal, or the passage of laws superseding them, have been omitted, the reason for omission being stated in every case. The printing of a section without any note or reference to an amendment shows that the section has remained unchanged since its adoption in 1891.

In carrying out this plan of compilation, ninety-seven laws, containing two hundred and nineteen sections, making in all two hundred and fifty-one amendments to one hundred and fifty-five different sections of the Charter, have been personally examined, the copy furnished, and the proof read by the compiler. In addition, the final proof has been read aloud in comparison with the official edition of the Session Laws published by the State. Thanks are due to Mr. William S. Rann, of the Corporation Counsel's staff, for occasional assistance.

Every effort has been made to secure accuracy and completeness, and it is hoped that the result will aid city officials to more efficient discharge of their duties, and also stimulate intelligent discussion of proposed changes in the Charter.

Buffalo, February, 1908.

Gift of B. of L. R.

353517

OFFICERS OF THE CITY.

MAYOR.
James N. Adam.(1)

COMPTROLLER.
George M. Zimmermann.(1)

TREASURER.
Neil McEachren.(2)

BOARD OF ASSESSORS.
Frank J. Schmidt,(1) Martin J. Ryan,(2) Edward G. Volz.(3)

CORPORATION COUNSEL,
Louis E. Desbecker.(1)

POLICE COMMISSIONERS.
Henry C. Zeller, William D. Doherty, and Mayor ex officio.

HEALTH COMMISSIONER.
Ernest Wende, M.D.

FIRE COMMISSIONERS.
Simon Seibert, William Person, and Russell H. Potter.

COMMISSIONER OF PUBLIC WORKS.
Francis G. Ward.(2)

PARK COMMISSIONERS.
Charles Mosier, Horace A. Noble, Maurice M. Wall, Thomas B. Lockwood, Harold G. Meadows, and the Mayor ex officio.

SUPERINTENDENT OF EDUCATION.
Henry P. Emerson.(2)

OVERSEER OF THE POOR.
Louis J. Kenngott.(1)

POLICE JUSTICE.
Simon A. Nash.(2)

JUSTICES OF THE PEACE.
Wm. Brennan,(1) Daniel J. Sweeney,(1) George E. Judge.(2)

JUDGES OF THE MUNICIPAL COURT.
Clark H. Hammond,(1) Devoe P. Hodson.(2)

(1) Term expires December 31, 1909; (2) expires December 31, 1911; (3) expires December 31, 1913; terms of other officers (all appointed) expire at various dates.

LEGISLATIVE DEPARTMENT.

COMMON COUNCIL.

President, HENRY ADSIT BULL.

Composed of the Aldermen and Councilmen in joint session.

BOARD OF COUNCILMEN.

President, HENRY H. BINGHAM, M.D.

JOHN C. BETZ
HENRY ADSIT BULL
ALFRED H. BURT
JOHN MCMANUS
JACOB J. SIEGRIST
WILLIAM BURNET WRIGHT, JR.
CHARLES L. WILLERT
HENRY ZIPP

BOARD OF ALDERMEN.

President, GEORGE JACOB HAFFA.

1st Ward	JOHN P. SULLIVAN	13th Ward	GEORGE J. BURLEY
2nd "	JOHN J. COLLINS	14th "	CHARLES F. BROOKS
3rd "	JOSEPH BUTLER	15th "	SAMUEL STENGEL
4th "	ELMER E. HARRIS	16th "	HENRY F. JERGE
5th "	LOUIS P. FUHRMANN	17th "	HARRY FISHER
6th "	JAS. S. PORTER, M.D.	18th "	GEORGE H. STRIKER
7th "	EDWARD SPERRY	19th "	OCTAVE A. BRUSO
8th "	JOHN F. NOWAK	20th "	WILLIAM H. CROSBY
9th "	WILLIAM METZLER	21st "	FRANCIS T. COPPINS
10th "	WILLIAM O. WEIMAR	22nd "	WM. E. SHIFFERENS
11th "	FRANK J. BRITZ	23rd "	GEORGE J. HAFFA
12th "	FRED. W. SCHMIEDING	24th "	FRANK J. EBERLE

25th Ward JOHN J. KENNEDY.

CITY CLERK.

HAROLD J. BALLIETT.

Deputy, JACOB A. STAUCH.

The terms of Councilmen Bingham, Bull, Burt, Siegrist, and Wright will expire December 31st, 1911; those of the other Councilmen and of all Aldermen expire December 31st, 1909.

Presiding officers are elected annually.

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CORRECTIONS AND ADDITIONS.

PAGE 32—After line 2 insert "for."

" 58—At end of note to section 77 add "and L. 1896, c. 809, Sec. 2."

" 60—In line 1 of section 97, change "obtain" to "retain."

" 83—At end of note to section 130, add "and L. 1903, c. 7."

" 90—Before line 11 from bottom, insert "subsequent."

" 94—At beginning of line 12, change "sons" to "persons."

" 224—In note to section 402, after "Thus amended by," insert "L. 1895, c. 805, Sec. 29, and."

" 255—In first note on page, after "L. 1893," change "c. 468" to "c. 245."

THE CHARTER

OF THE

CITY OF BUFFALO

LAWS OF 1891, CHAPTER 105

with all amendments to and including

ACTS OF THE LEGISLATURE OF 1907

IN EFFECT JANUARY 1, 1908

AN ACT

TO REVISE THE CHARTER OF THE CITY OF BUFFALO

Approved by the Governor, March 27, 1891. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

TITLE I.

THE CITY.

SECTION 1. The city of Buffalo shall be bounded as follows: Beginning at a point where a line drawn parallel with and thirteen hundred and fifty-three feet distant, and southerly at right angles from the northerly line of lot one hundred and three on the "mile strip" of the New York state reservation on the Niagara River will intersect the east bank of the Niagara River, and running thence easterly and parallel with said northerly line of said lot one hundred and three to the New York state reservation line, including so much of said lot one hundred and three as lies southerly of the line, thus establishing and excluding so much of the "Jones mile square," so called, as lies northerly of said line; thence

southeasterly along the northeasterly bounds of the said "Jones mile square" and the New York state reservation line the following courses and distance, to wit: South forty degrees east, two chains and sixty links; south thirty-five degrees east, seven chains; south thirty degrees east, seven chains; south twenty-five degrees east, seven chains, and south twenty degrees east, one chain and eighty-three links to the northwesterly corner of township number eleven, in the eight range of townships of the Holland Land Company's survey; thence easterly along, the northerly line of said township, to the northeasterly corner thereof; thence easterly, along the northerly line of said township to the northeasterly corner thereof; thence easterly, along the northerly line of lot number sixty-six of the eleventh township and seventh range, to the northeasterly corner of said lot number sixty-six; thence southerly, along the easterly line of said lot number sixty-six, to the southeasterly corner thereof; thence easterly, along the southerly line of lots numbers sixty-five, fifty-eight, fifty-seven, and fifty-six, to the southeasterly corner of said lot fifty-six; thence northerly along the easterly line of lots numbers forty-six, forty-five, forty-four, forty-three, forty-two and forty-one, to the southwesterly corner of lot number thirty-two, and the southeasterly corner of lot number forty-one, in said last-mentioned township; said corners being also a point in the northerly line of the Buffalo Creek Indian reservation, as surveyed by James Sperry, eight chains and eighty-two links easterly from the northwesterly corner of lot number one hundred and forty-eight and one-half; thence south one degree and fifty-one minutes west, two hundred and eighty-eight chains and seventy-four links to a point in the southerly line of lot number two hundred and seventy-five of said reservation, and eighteen chains and forty-eight links easterly from southwesterly corner of said lot number two hundred and seventy-five; thence westerly along the southerly line of lots numbers two hundred and seventy-

five, two hundred and sixty-four, two hundred and sixty-three and forty-two, to the southwesterly corner of said lot number forty-two; thence westerly on the same course as the last-described line, to the westerly line of the state of New York; thence northerly, along said westerly line of the state of New York, to a point on Niagara River, at right angles with the easterly shore opposite the place of beginning, and thence, in a right line easterly, to the place of beginning.

§ 2. The citizens of this state, who may from time to time reside in said city, shall continue to be a municipal corporation in perpetuity under the name of the "City of Buffalo." The corporation may take, purchase, hold and convey real and personal property. It may take by gift, grant, bequest and devise, and hold real and personal estate in trust for any purpose of education, art, health, charity or amusement, for parks, gardens and grounds for the burial of the dead, or other public use, and for the erection of statues, monuments and public buildings, upon such terms as may be described by the grantor or donor and accepted by the corporation; and it may provide for the proper execution of such trusts. It may do everything necessary to carry into effect the powers granted to it.

§ 3. The city shall be divided into twenty-five wards, bounded, respectively, as follows:

FIRST WARD.

All that portion of the city included in the following boundary shall be known as the first ward, to wit:

Beginning at the intersection of the center lines of Main Street and Perry Street; thence along the center line of Main Street southerly to the center line of Buffalo River; thence westerly along the center line of Buffalo River to a point in the westerly boundary of the state of New York opposite the mouth of Buffalo River; thence south-

erly along the westerly boundary of the state of New York to the intersection with a line which would be formed if the easterly track of the Buffalo Creek Railroad were continued in a straight line to the westerly boundary of the state of New York; thence northeasterly along the center of said line to the easterly track of the Buffalo Creek Railroad as now located to the center line of Perry Street; thence westerly along the center line of Perry Street to the intersection of the center lines of Main Street and Perry Street, the place of beginning.

Thus amended by L. 1905, c. 644.

SECOND WARD.

Beginning at the intersection of the center lines of Main Street and Seneca Street; thence southerly along the center line of Main Street to the intersection of the center lines of Main Street and Perry Street; thence easterly along the center line of Perry Street to the intersection of the center lines of Perry Street and Babcock Street; thence northerly along the center line of Babcock Street to the intersection of the center lines of Babcock Street and Seneca Street; thence westerly along the center line of Seneca Street to the intersection of the center lines of Main Street and Seneca Street, the place of beginning.

Thus amended by L. 1905, c. 644.

THIRD WARD.

Beginning at the intersection of the center lines of Main Street and Eagle Street; thence southerly along the center line of Main Street to the intersection of the center lines of Main Street and Seneca Street; thence easterly along the center line of Seneca Street to the intersection of the center lines of Seneca Street and Babcock Street; thence northerly along the center line of Babcock Street to the intersection of the center lines of

Babcock Street and Clinton Street; thence westerly along the center line of Clinton Street to the intersection of the center lines of Clinton Street and Fillmore Avenue; thence southerly along the center line of Fillmore Avenue to the intersection of the center line of Fillmore Avenue and Eagle Street; thence westerly along the center line of Eagle Street to the intersection of the center lines of Main Street and Eagle Street, the place of beginning.

Thus amended by L. 1905, c. 644.

FOURTH WARD.

Beginning at the intersection of the center lines of Babcock Street and Clinton Street; thence southerly along the center line of Babcock Street to the intersection of the center lines of Babcock Street and Perry Street; thence westerly along the center line of Perry Street to the easterly boundary of the first ward; thence southwesterly along said eastern boundary to the westerly boundary of the state of New York; thence southeasterly along said westerly boundary to its intersection with the southerly boundary of the said city; thence easterly along the southerly boundary of said city and northerly along the easterly boundary of said city to its intersection with the center line of Clinton Street; thence westerly along the center line of Clinton Street to the intersection of the center lines of Clinton Street and Babcock Street, the place of beginning.

Thus amended by L. 1905, c. 644.

FIFTH WARD.

Beginning at the intersection of the center lines of Main Street and Goodell Street; thence southerly along the center line of Mian Street to the intersection of the center lines of Main Street and Eagle Street; thence easterly along the center line of Eagle Street to the

intersection of the center lines of Eagle Street and Pine Street; thence northerly along the center line of Pine Street to the intersection of the center line of Pine Street and William Street; thence easterly along the center line of William Street to the intersection of the center lines of William Street and Bennett Street; thence northwesterly along the center lines of Bennett Street and Ash Street to the intersection of the center lines of Genesee Street and Ash Street; thence westerly along the center line of Genesee Street to the intersection of the center lines of Genesee Street and Michigan Street; thence northerly along the center line of Michigan Street to the intersection of the center lines of Michigan Street and Goodell Street; thence westerly along the center line of Goodell Street to the intersection of the center lines of Main Street and Goodell Street, the place of beginning.

Thus amended by L. 1905, c. 644.

SIXTH WARD.

Beginning at the intersection of the center lines of Broadway and Bennett Street; thence southeasterly along the center line of Bennett Street to the intersection of the center lines of Bennett Street and William Street; thence westerly along the center line of William Street to the intersection of the center lines of William Street and Pine Street; thence southerly along the center line of Pine Street to the intersection of the center lines of Pine Street and Eagle Street; thence easterly along the center line of Eagle Street to the intersection of the center lines of Eagle Street and Madison Street; thence northerly along the center line of Madison Street to the intersection of the center lines of Madison Street and Broadway; thence westerly along the center line of Broadway to the intersection of the center lines of Bennett Street and Broadway, the place of beginning.

Thus amended by L. 1905, c. 644.

SEVENTH WARD.

Beginning at the intersection of the center lines of Madison Street and Broadway; thence southerly along the center line of Madison Street to the intersection of the center lines of Madison Street and Eagle Street; thence easterly along the center line of Eagle Street to the intersection of the center lines of Eagle Street and Smith Street; thence northerly along the center line of Smith Street to the intersection of the center lines of Smith Street and Broadway; thence westerly along the center line of Broadway to the intersection of the center lines of Broadway and Madison Street, the place of beginning.

Thus amended by L. 1905. c. 644

EIGHTH WARD.

Beginning at the intersection of the center lines of Broadway and Smith Street; thence southerly along the center line of Smith Street to the intersection of the center lines of Smith Street and Eagle Street; thence easterly along the center line of Eagle Street to the intersection of the center lines of Eagle Street and Fillmore Avenue; thence northerly along the center line of Fillmore Avenue to the intersection of the center lines of Fillmore Avenue and William Street; thence easterly along the center line of William Street to the intersection of the center line of William Street and the center of a line which would be formed by the extension of Milburn Street to William Street; thence northerly along the center of said line and the center line of Milburn Street to the intersection of the center lines of Milburn Street and Broadway; thence westerly along the center line of Broadway to the New York Central belt line track (as now located); thence northerly along said belt line track to the center of a line formed by the extension of Stanislaus Street eastward to said belt line track; thence westerly along the center of said line and the center line

of Stanislaus Street to the intersection of the center lines of Stanislaus Street and Beck Street; thence southerly along the center line of Beck Street to the intersection of the center lines of Beck Street and Broadway; thence westerly along the center line of Broadway to the intersection of the center lines of Broadway and Smith Street, the place of beginning.

Thus amended by L, 1905, c. 644.

NINTH WARD.

Beginning at the intersection of the center lines of Broadway and Milburn Street; thence southerly along the center line of Milburn Street and the center of a line which would be formed by the extension of Milburn Street to William Street to the intersection of the center of said line with the center line of William Street; thence westerly along the center line of William Street to the intersection of the center lines of William Street and Fillmore Avenue; thence southerly along the center line of Fillmore Avenue to the intersection of the center lines of Fillmore Avenue and Clinton Street; thence easterly along the center line of Clinton Street to the easterly boundary of the said city; thence northerly along the easterly boundary of said city to the intersection of said easterly boundary and the center line of Broadway; thence westerly along the center line of Broadway to the intersection of the center lines of Broadway and Milburn Street, the place of beginning.

Thus amended by L. 1905, c. 644.

TENTH WARD.

Beginning at the intersection of the center lines of Genesee Street and Ash Street; thence southeasterly along the center line of Ash Street to the intersection of the center lines of Ash Street and Broadway; thence easterly along the center line of Broadway to the inter-

section of the center lines of Broadway and Sherman Street; thence northerly along the center line of Sherman Street to the intersection of the center lines of Sherman Street and Genesee Street; thence southwesterly along the center line of Genesee Street to the intersection of the center lines of Genesee Street and Ash Street, the place of beginning.

Thus amended by L. 1905, c. 644.

ELEVENTH WARD.

Beginning at the intersection of the center lines of Genesee Street and Sherman Street; thence southerly along the center line of Sherman Street to the intersection of the center lines of Sherman Street and Broadway; thence easterly along the center line of Broadway to the intersection of the center lines of Broadway and Beck Street; thence northerly along the center line of Beck Street to the intersection of the center lines of Beck Street and Stanislaus Street; thence easterly along the center line of Stanislaus Street and the center of a line formed by the extension of Stanislaus to the New York Central belt line tracks; thence northerly along the said New York Central belt line tracks to the center line of Walden Avenue; thence westerly along the center line of Walden Avenue and Best Street to the intersection of the center lines of Best Street and Herman Street; thence southerly along the center line of Herman Street to the intersection of the center lines of Herman Street and Genesee Street; thence southwesterly along the center line of Genesee Street to the intersection of the center lines of Genesee Street and Sherman Street, the place of beginning.

Thus amended by L. 1905, c. 644.

TWELFTH WARD.

Beginning at the intersection of the center lines of Delavan Avenue and Grider Street; thence southerly

along the center line of Grider Street to the intersection of the center lines of Grider Street and Ferry Street; thence westerly along the center line of Ferry Street to the New York Central belt line tracks as now located; thence southerly along the New York Central belt line tracks to the center line of Broadway; thence easterly along the center l ne of Broadway to the easterly boundary of the said city; thence northerly along the easterly boundary of said city to the center line of Delavan Avenue; thence westerly along the center line of Delavan Avenue to the intersection of the center lines of Delavan Avenue and Grider Street, the place of beginning.

Thus amended by L. 1905, c. 644.

THIRTEENTH WARD.

Beginning at the intersection of the center lines of Main Street and North Street; thence southerly along the center line of Main Street to the intersection of the center lines of Main Street and Goodell Street; thence easterly along the center line of Goodell Street to the intersection of the center lines of Goodell Street and Michigan Street; thence southerly along the center line of Michigan Street to the intersection of the center lines of Genesee Street and Michigan Street; thence northeasterly along the center line of Genesee Street to the intersection of the center lines of Genesee Street and Hickory Street; thence northwesterly along the center line of Hickory Street to the intersection of the center lines of Hickory Street and Cherry Street; thence northeasterly along the center line of Cherry Street to the intersection of the center lines of Cherry Street and Locust Street; thence northerly along the center line of Locust Street to the intersection of the center lines of Locust Street and North Street; thence westerly along the center line of North Street to the intersection of the center lines of Main Street and North Street, the place of beginning.

Thus amended by L. 1905, c. 644.

FOURTEENTH WARD.

Beginning at the intersection of the center lines of North Street and Locust Street; thence southerly along the center line of Locust Street to the intersection of the center lines of Locust Street and Cherry Street; thence southwesterly along the center line of Cherry Street to the intersection of the center lines of Cherry Street and Hickory Street; thence southerly along the center line of Hickory Street to the intersection of the center lines of Genesee Street and Hickory Street; thence northeasterly along the center line of Genesee Street to the intersection of the center lines of Herman Street and Genesee Street; thence northerly along the center line of Herman Street to the intersection of the center lines of Herman Street and Best Street; thence westerly along the center line of Best Street to the intersection of the center lines of Best Street and Jefferson Street; thence southerly along the center line of Jefferson Street to the intersection of the center lines of Jefferson Street and North Street; thence westerly along the center line of North Street to the intersection of the center lines of North Street and Locust Street, the place of beginning.

Thus amended by L. 1905, c. 644.

FIFTEENTH WARD.

Beginning at the intersection of the center lines of Main Street and Delavan Avenue; thence southwesterly and southerly along the center line of Main Street to the intersection of the center lines of Main Street and North Street; thence easterly along the center line of North Street to the intersection of the center lines of North Street and Jefferson Street; thence northerly along the center line of Jefferson Street to the intersection of the center lines of Jefferson Street and Delavan Avenue; thence westerly along the center line of Delavan Avenue to the intersection of the center lines of Main Street and Delavan Avenue, the place of beginning.

Thus amended by L. 1905, c. 644.

SIXTEENTH WARD.

Beginning at the intersection of the center lines of Delavan Avenue and Jefferson Street; thence southerly along the center line of Jefferson Street to the intersection of the center lines of Jefferson Street and Best Street; thence easterly along the center lines of Best Street and Walden Avenue to the New York Central belt line tracks as now located; thence northerly along the said belt line tracks to the center line of Ferry Street; thence easterly along the center line of Ferry Street to the intersection of the center lines of Ferry Street and Grider Street; thence northerly along the center line of Grider Street to the intersection of the center lines of Grider Street and Delavan Avenue; thence westerly along the center line of Delavan Avenue to the intersection of the center lines of Delavan Avenue and Jefferson Street, the place of beginning.

Thus amended by L. 1905, c. 644.

SEVENTEENTH WARD.

Beginning at the intersection of the center lines of Main Street and Delavan Avenue; thence easterly along the center line of Delavan Avenue to the easterly boundary of the city; thence northerly along the easterly boundary of the city to the northerly boundary of the city; thence westerly along the northerly boundary of the city to the easterly boundary of the city; thence northerly along the easterly boundary of the city to the northerly boundary of the city; thence westerly along the northerly boundary of the city to the center line of Delaware Avenue; thence southerly along the center line of Delaware Avenue to the center of Scajaquada Creek; thence along the center of Scajaquada Creek to the center line of Main Street; thence along the center line of Main Street to the intersection of the center lines of Main Street and Delavan Avenue, the place of beginning.

Thus amended by L. 1905, c. 644.

EIGHTEENTH WARD.

Beginning at the intersection of the northerly boundary of the city and the center line of Delaware Avenue; thence southerly along the center line of Delaware Avenue to the center line of Scajaquada Creek; thence westerly along the center line of Scajaquada Creek to the westerly boundary of the state of New York, excluding any portion of Squaw Island; thence northerly along the westerly boundary of the state of New York to the intersection of said westerly boundary and the northwesterly boundary of the city; thence northeasterly, southeasterly and easterly along the northerly boundary of the city to the intersection of the northerly boundary of the city and the center line of Delaware Avenue, the place of beginning.

Thus amended by L. 1905, c. 644, and L. 1906, c. 313.

NINETEENTH WARD.

Beginning at the intersection of the center lines of Main Street and Scajaquada Creek; thence westerly along the center line of Scajaquada Creek to the westerly boundary of the state of New York, including Squaw Island; thence southerly along the westerly boundary of the state of New York to a point on the center line of Delavan Avenue extended; thence easterly on the center line of Delavan Avenue extended and the center line of Delavan Avenue to the intersection of the center lines of Delavan Avenue and Main Street; thence northeasterly along the center line of Main Street to the intersection of the center lines of Main Street and Scajaquada Creek, the place of beginning.

Thus amended by L. 1905, c. 644, and L. 1906, c. 313.

TWENTIETH WARD.

Beginning at the intersection of the center lines of Main Street and Delavan Avenue; thence southwesterly

along the center line of Main Street to the intersection of the center lines of Main Street and Ferry Street; thence westerly along the center line of Ferry Street to the intersection of the center lines of Ferry Street and Hampshire Street; thence southwesterly along the center line of Hampshire Street to the intersection of the center lines of Hampshire Street and Albany Street; thence westerly on the center line of Albany Street and the center line of Albany Street extended to the westerly boundary of the state of New York; thence northerly along the westerly boundary of the state of New York to a point on the center line of Delavan Avenue extended; thence easterly on the center line of Delavan Avenue extended, and the center line of Delavan Avenue to the intersection of the center lines of Delavan Avenue and Main Street, the place of beginning.

Thus amended by L. 1905, c. 644, and L. 1906, c. 313.

TWENTY-FIRST WARD.

Beginning at the intersection of the center lines of Main Street and Ferry Street; thence southerly along the center line of Main Street to the intersection of the center lines of Main Street and North Street; thence westerly along the center line of North Street to the intersection of the center line of Richmond Avenue; thence northerly along the center line of Richmond Avenue to the intersection of the center lines of Richmond Avenue and Connecticut Street; thence southwesterly along the center line of Connecticut Street to the intersection of the center lines of Connecticut Street and Fifteenth Street; thence northwesterly along the center line of Fifteenth Street to the intersection of the center lines of Fifteenth Street and Hampshire Street; thence northeasterly along the center line of Hampshire Street to the intersection of the center lines of Hampshire Street and Ferry Street; thence easterly along the center line of Ferry Street to the intersection of the

center lines of Main Street and Ferry Street, the place of beginning.

Thus amended by L. 1905, c. 644, and L. 1906, c. 313.

TWENTY-SECOND WARD.

Beginning at the intersection of the center lines of Connecticut Street and Richmond Avenue; thence southerly along the center line of Richmond Avenue to the intersection of the center lines of Richmond Avenue and York Street; thence southwesterly along the center lines of York Street and Porter Avenue to a point in the westerly boundary of the state of New York on the center line of Porter Avenue extended; thence northerly along the westerly boundary of the state of New York to a point on the center line of Albany Street extended; thence easterly on the center line of Albany Street extended, and the center line of Albany Street to the intersection of the center lines of Albany Street and Hampshire Street; thence northeasterly along the center line of Hampshire Street to the intersection of the center lines of Hampshire Street and Fifteenth Street; thence southeasterly along the center line of Fifteenth Street to the intersection of the center lines of Fifteenth Street and Connecticut Street; thence northeasterly along the center line of Connecticut Street to the intersection of the center lines of Connecticut Street and Richmond Avenue, the place of beginning.

Thus amended by L. 1905, c. 644, and L. 1906, c. 313.

TWENTY-THIRD WARD

Beginning at the intersection of the center lines of Main Street and North Street; thence southerly along the center line of Main Street to the intersection of the center lines of Main Street and Tupper Street; thence westerly and northwesterly along the center lines of Tupper Street, Twelfth Street, Maryland Street, Cottage

Street, Hudson Street and Plymouth Avenue to the intersection of the center lines of Plymouth Avenue and York Street; thence northeasterly along the center line of York Street to the intersection of the center lines of York Street and Richmond Avenue; thence southerly along the center line of Richmond Avenue to the intersection of the center line of North Street; thence easterly along the center line of North Street to the in ersection of the center lines of Main Street and North Street, the place of beginning.

Thus amended by L. 1905, c. 644; L. 1906, c. 313 and L. 1907, c. 284.

TWENTY-FOURTH WARD.

Beginning at the intersection of the center lines of Main Street and Tupper Street; thence southerly along the center line of Main Street to the intersection of the center lines of Main Street and Niagara Street; thence northwesterly along the center lines of Niagara Street, Mohawk Street, Wilkeson Street and Seventh Street to the intersection of the center lines of Seventh Street and Porter Avenue; thence northeasterly along the center lines of Porter Avenue and York Street to the intersection of the center lines of York Street and Plymouth Avenue; thence easterly and southeasterly along the center lines of Plymouth Avenue, Hudson Street, Cottage Street, Maryland Street, Twelfth Street, and Tupper Street to the intersection of the center lines of Main Street and Tupper Street, the place of beginning.

Thus amended by L. 1905, c. 644; L. 1906, c. 313 and L. 1907, c. 284.

TWENTY-FIFTH WARD.

Beginning at the intersection of the center lines of Main Street and Niagara Street; thence southerly along the center line of Main Street to the center line of Buffalo

River; thence along the center line of Buffalo River to Lake Erie to a point in the westerly boundary of the state of New York opposite the mouth of Buffalo River; thence northwesterly along the westerly boundary of the state of New York to a point on the center line of Porter Avenue extended; thence northeasterly on the center line of Porter Avenue extended and the center line of Porter Avenue to the intersection of the center lines of Porter Avenue and Seventh Street; thence southeasterly along the center lines of Seventh Street, Wilkeson Street, Mohawk Street, and Niagara Street to the intersection of the center lines of Main Street and Niagara Street, the place of beginning.

Thus amended by L. 1905, c. 644, and L. 1906, c. 313.

TITLE II.

THE LEGISLATIVE DEPARTMENT.

Chapter I.

§ 4. The legislative power of the city shall be vested in a Common Council, which shall consist of a Board of Councilmen and a Board of Aldermen.

§ 5. No action of the Common Council shall be of force unless it shall have originated in the Board of Aldermen, and shall have been approved by the Board of Councilmen; but the Board of Councilmen may amend any measure transmitted to it and return the same to the Board of Aldermen for further consideration; if the Board of Aldermen agree to such amendment, its action as amended, shall be the action of the Common Council; if it shall not agree thereto, and shall further amend, it may return the measure as finally passed by it to the Board of Councilmen for its further consideration. Whenever by law, the giving of notice, reference to any Committee or any officer or person, or other act is made a prerequisite

to action by the Common Council, it shall be necessary for such notice to be given, reference to be made or other act to be done, by the Board of Aldermen only, unless herein otherwise specifically provided.

§ 6. The Board of Councilmen shall consist of nine members, who shall be elected by the electors of the city. Councilmen hereafter elected shall hold office for four years, except as hereinafter provided. Three Councilmen shall be elected at the municipal election held in the year eighteen hundred and ninety-five. Six Councilmen shall be elected at the municipal election in the year eighteen hundred and ninety-seven, and they shall meet before the end of that year, at a time and place to be designated by the Mayor, and determine by lot, two of their number to hold office for two years, and shall certify in writing to the City Clerk their determination. The term of office of the Councilmen elected in the year eighteen hundred and ninety-seven and so certified shall be two years, and of the others shall be four years. At the annual election held in each odd-numbered year thereafter there shall be elected alternately five and four Councilmen, respectively, for the term of four years.

Thus amended by L. 1895, c. 805, Sec. 1.

Before 1895, three Councilmen were elected every year to serve three years.

§ 7. The Board of Aldermen shall consist of twenty-five members, one elected by the electors of each ward. They shall hold office for the term of two years, except as provided in section three hundred and sixty-nine of this act as amended. At the municipal election held in each odd-numbered year an Alderman shall be elected in each ward, except in the year eighteen hundred and ninety-five, when Aldermen shall be elected only in the wards in which Aldermen were not elected at the general election held in the year eighteen hundred and ninety-four. Aldermen shall be residents of the wards in which

they are elected, respectively, and removal from such wards shall make the office vacant.

Thus amended by L. 1895, c. 805, Sec. 2.

Before 1895, Aldermen were elected annually.

§ 8. A majority of all the Aldermen elected shall constitute a quorum of the Board of Aldermen, and six Councilmen shall constitue a quorum of the Board of Councilmen, but less than a quorum of each board may adjourn from time to time and compel the attendance of absent members. Whenever a unanimous or other specified vote of the Common Council is required, such vote shall be required in each board. The boards composing the Common Council shall meet on the first Monday of January in each year at ten o'clock in the forenoon, and as soon thereafter as practicable each board shall elect by ballot one of its members as its president to preside over its meetings for one year; and for the purpose of such election the City Clerk, or his deputy, shall act as presiding officer of each board. The Common Council shall meet on the same day in each year at two o'clock in the afternoon, and as soon thereafter as practicable such Common Council shall elect by ballot one of its members as its president to preside over its meetings for one year, and for the purpose of such election the City Clerk, or his deputy, shall act as presiding officer of such Common Council. In the absence of its president, each board may choose a temporary president. Nothing herein contained shall be construed to nullify the action of the Common Council in selecting a president thereof in the month of January, eighteen hundred and ninety-three; but said election or designation is hereby ratified, legalized, and confirmed.

Thus amended by L. 1893, c. 345, Sec. 1.

This law added the sentence providing for a meeting of the Common Council, and the last sentence.

§ 9. Each board composing the Common Council shall fix the time for its stated meetings, and may adjourn

from time to time. The Mayor, or, if he be absent from the city or unable to act, the City Clerk, on the written request of four Aldermen and two Councilmen, may call special meetings of the Common Council, and the Mayor may call special meetings of either board. Each board may provide by rule for additional modes of calling its special meetings. Notice of special meetings of the Common Council shall be given by delivering personally to each Alderman and Councilman, or leaving at his residence, at least six hours before such meeting, a written notice thereof, signed by the person calling the same. Notice of special meetings of either board shall be given in the same manner, but to the members only of the board which is to meet.

§ 10. Each board shall be the judge of the qualifications of its members, and shall determine the rules of its own proceedings; but all votes in the Board of Councilmen, where there is a dissenting vote, and all votes where more than a majority is required, in the Board of Aldermen, shall be taken by ayes and nays, which shall be entered on the journal. Each board shall keep a journal of its proceedings, and publish the same, except that such parts of the proceedings of the Board of Councilmen as merely affirms or concurs in the proceedings of the Board of Aldermen need not be published. The sitt ngs of each board shall be public. Each board may appoint a sergeant-at-arms and such doorkeepers and messengers as it may find necessary.

§ 11. The Common Council shall provide the different departments with suitable rooms and accommodations, where they are not otherwise provided for.

§ 12. The Common Council shall designate the banks in which the Treasurer shall deposit the money of the city, and require from each bank security for the payment thereof. The cashier of each of said banks shall, on Monday of each week, report in writing to the Comp-

troller, the amount on deposit to the credit of the Treasurer at the closing of the bank on the Saturday preceding. It shall be lawful for the city to borrow money temporarily, from time to time, as occasion requires, in anticipation of the collection of taxes and resources, from the bank depositories so designated, upon checks signed by the Treasurer and countersigned by the Comptroller, in such amounts and at such rates of interest as shall be agreed upon in the annual contracts between the city and said depositories or any supplemental contracts duly made and entered into between such parties. Said depositories are hereby authorized to loan such moneys according to such agreements.

Thus amended by L. 1907, c. 106.

This law added the last two sentences, giving the power to borrow money for short periods at banks.

§ 13. The Common Council may, by a vote of two-thirds of the members of each board, authorize the Mayor to offer a reward for the apprehension of the perpetrator of crime committed within the city, or an offender against an ordinance, to be paid upon the conv ction of such per on.

§ 14. The Common Council may authorize the Comptroller to open an account upon the books of his office, to be called the local redemption fund. The Comptroller shall, from time to time, transfer to such fund all the balances to the credit of local assessments levied on account of any local improvements ordered more than six years previous thereto, and may draw orders on such local redemption fund for the payment of any outstanding warrants drawn against assessments so transferred, upon the surrender and concellation of such outstanding warrants, or in case of loss or destruction thereof, upon filing a bond of indemnity to the city therefor. It may also empower the Comptroller to close specified accounts on his books by charging the same to the profit and loss account. Such authority shall be given only upon his

written request, specifying the account and the reason for such action. It may authorize an issue of bonds to an amount not exceeding one million five hundred thousand dollars, for the purpose of raising money to take up and pay all outstanding warrants heretofore issued in payment of any local work or improvement. Such bonds shall be payable at such time or times as the Common Council may prescribe, and shall bear interest not to exceed four per centum per annum. All moneys realized on account of local assessments or from sales for non-payment of the same, or from redemption or assignment of certificates of sales therefor, and all additions to and interest upon local assessments shall be paid into said local redemption fund, and such moneys when so realized shall be used and are hereby pledged for the payment of any bonds of the city issued for the purpose of redeeming warrants and of raising money to pay for any local work or improvement for the payment of which such bonds were issued.

Thus amended by L. 1902, c. 231, Sec. 1.

This law struck out a provision that "all premiums realized upon the sale of bonds of the city" should also be paid into this fund, and made them a resource of the general fund. See Sec. 68, below.

§ 15. The Common Council shall audit all claims against the city. Unliquidated claims shall be filed with the City Clerk, and shall be made out in detail, specifying, if for labor or services, the time when, the place where, by whom and under whose direction, and by what authority performed; if for merchandise, material, or other articles furnished, the items thereof, by whom ordered, and when and to whom delivered, and shall be certified to be correct by the head of the department for which the work was done or materials furnished; and if for damages, for wrong or injury, when, where, and how occasioned, and shall be accompanied by an affidavit that the claim and the items and specifications thereof

are in all respects just and correct, and that no payments have been made, and that no set-off exists except those stated.

§ 16. No action or proceeding to recover or enforce any claim against the city shall be brought until the expiration of forty days after the claim shall have been filed with the City Clerk for presentation to the Common Council for audit, in the manner and form aforesaid, and no action shall be maintained against the city for personal injury, unless notice of intention to commence such action shall have been filed with the Corporation Counsel within six months after such cause of action shall have accrued. Before the Common Council shall audit any claim other than for personal injuries or injuries to property the Board of Aldermen shall refer it to the auditor. If the claim be not made out and verified as above required the Board of Aldermen may, within thirty days. after its presentation, refuse on that ground to audit it. All actions brought against the city to recover damages for personal injuries caused by negligence must be commenced within one year from the time of receiving the injuries.

§ 17. The Common Council shall, from time to time, enact ordinances:

(1.) To fix the number of and the salary or compensation to be paid to the several officers and employees of the city not otherwise herein fixed or provided for, and the times when the same shall be paid. Such salary or compensation shall be fixed in the case of elective officers before their election and in case of appointed officers before their appointment. No change shall be made in the salary or compensation of any officer or employee during his term of service, and no extra compensation shall be granted to any such officer or employee or to any contractor.

(2.) To prescribe the duties of all officers or persons elected or appointed under this act, not herein prescribed.

(3.) To define and prevent disorderly conduct; to prevent all disorderly assemblages, all disturbing noise, all drunkenness in public places; and to punish vagrants, beggars, annd disorderly persons as defined by law.

(4.) To preserve and protect the harbors, canals, basins, and other waters of the city; to prevent all encroachments, obstructions, and deposits in them; to prohibit or regulate bathing or swimming in any waters in the city; to prevent any steam vessel, while navigating waters within the city, from using wood for fuel; to regulate and prescribe the mode and speed of vessels, boats, and floats in entering and leaving them, and in coming to, laying at, or departing from the wharves and piers, and the disposition of the sails, yards, anchors, and appurtenances; and to empower the harbor master to prescribe and regulate the location therein of all vessels, boats, or floats, and to compel them to change their location.

(5.) To prescribe general regulations for the erection of all buildings in the city; to define the limits within which wooden buildings shall not be erected, placed, or rebuilt, and the manner in, and the materials of which all buildings shall be constructed within such limits; also to define outer limits in which wooden buildings may be constructed, placed, or rebuilt, under such regulations as may be imposed by ordinance, special permission from the Common Council being required therefor; every building erected or placed contrary to any ordinance passed under the above provisions shall be deemed a common nuisance, and may be abated as such. An application for special permission to erect, place, or rebuild any building within the outer limits contrary to such ordinances shall, before being acted upon, be properly referred by the Board of Aldermen, and a resolution granting such permission can only be passed at a

regular meeting, held subsequent to such reference, and by the unanimous vote of the members of the Common Council present. To prevent all unsafe construction or condition of chimneys, flues, stoves, pipes, and other things used for fire or conducting smoke; to compel the cleaning of them, and to regulate their construction and condition; to prevent the deposit of ashes in unsafe places and receptacles; to regulate the use of lights in buildings in which combustible articles may be deposited; to regulate the carrying on of manufactories liable to cause fires, and to regulate and prevent the use of fireworks and firearms in the city; to prevent bonfires in the streets and public grounds; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs and ladders leading to the same, and to require fire-escapes to be placed upon buildings when, and as directed by the Department of Fire; to punish the willful making of a false alarm of fire, or willfully calling a police patrol wagon without cause; and to prohibit the formation of fire, hose, or hook and ladder companies.

(6.) To license and regulate cartmen, porters, owners and drivers of all vehicles used for the transportation of passengers or property for hire, and to fix the rates of compensation to be taken by them; to license and regulate plumbers, auctioneers, butchers, hawkers, peddlers, junk dealers, pawnbrokers and the business of pawnbrokerage, and to fix the rates to be charged by pawnbrokers in their business; to regulate the running at large of dogs, and to license the same; to prohibit, license or regulate public billiard rooms, bowling alleys, runners or solicitors for houses of entertainment, railroads, vessels and vehicles, and the exhibition of shows of every kind, and of theatrical representations; to prescribe the terms and conditions on which licenses shall be granted; to impose and levy a tax upon the owner or owners of hackney carriages, sleighs, cabs, coupés, private carriages, barouches, buggies, wagons, omnibuses, carts, drays,

baggage wagons, automobiles, motor vehicles, bicycles, tricycles and similar vehicles, or any other vehicle, the privilege of operating, driving or propeling the same along or upon the public streets, avenues, highways, and other public places in the city of Buffalo; to fix the amount of such tax and to prohibit the use of the public streets, highways, avenues or other public places of the city by the owner or owners, or driver or drivers, of any such vehicle in the event of any tax so imposed not being paid, and to fix and provide such penalty or penalties as it shall deem proper for a violation of any such ordinances.

Thus amended by L. 1904, c. 31.

The power to tax carriages and all that follows were added by this amendment.

(7.) To prohibit or regulate the use of locomotive engines, and of steam, and to regulate other motive power and speed on any portion of any railroad within the city; to require any railroad company to keep a flagman or gates at each railroad crossing of a public street, to provide for the inspection of steam engines and boilers used in the city, and to prohibit the use of unsafe ones, and to prohibit any person who has not been duly licensed under such regulations as the Common Council may prescribe, from running any steam engine, stationary or otherwise, in the city, except the engineers of duly incorporated steam railroads (while engaged in operating or running the locomotive engines of said railroads) and engineers duly licensed by the authorities of the United States (while engaged in operating or running engines upon the waters under the jurisdiction of the United States or of the State of New York); to classify such engineers and to provide for the appointment by the Mayor of such inspector, examiners and employes as may be required to carry out such ordinance. (A marine engineer holding a United States license shall, on presenting such United States license to an examiner of the city of Buffalo, appointed pursuant to the provisions of this

section, be given an examination, and if found qualified shall be given a stationary engineer's license of the same relative grade as the United States license that the applicant holds, or of a grade sufficiently high to allow him to operate the plant that he was operating at the same time that this act goes into effect, provided, however, that such marine engineer shall be a resident of the city of Buffalo for a period of three years before making such application, and a citizen of the United States. Such examination to be held in writing, and if any engineer so examined shall be dissatisfied with the decision of the said examiner he shall have the right to appeal to the Mayor; and the Mayor shall appoint a board of three disinterested engineers, which may be composed of two chief engineers in active service and a mechanical engineer of this city to hear and determine said appeal; and in case the person appealing be a marine engineer, one member of the board shall be a man holding a license as a chief engineer of steam vessels, issued by the United States, operating a steam plant in the city of Buffalo); to prohibit or regulate the keeping and conveying of gunpowder and other explosive substances, and other dangerous fluid or material, and to provide for the inspection, forfeiture and destruction of the same; to require that the telegraph, telephone, or electric light wires or cables, or other appliances for conducting electricity and the poles thereof heretofore erected in any street, alley or public ground, be removed from overhead in the street, alley or public ground or any part thereof within reasonable time, not less than six months after the enactment of such ordinance and a compliance of such ordinance in respect to the removal of poles, wires, cables, and other appliances of conducting electricity from the streets, alleys, and public grounds, may be enforced by mandamus by any court of competent jurisdiction upon the application of the city as relator. Any company, corporation or individual may place its wires and electrical conductors in conduits under the surface

of the streets, alleys or public grounds in such manner as to not unnecessarily interfere with the use of such streets, or alleys or public grounds for local improvements of any character, or with the sewers, or water or gas mains, or branches thereof, subject, however, to such regulations and restrictions as the Common Council may by ordinance make or impose in respect thereto; for the benefit of the public, the city or its citizens, provided, however, that nothing herein contained shall be construed as authorizing the Common Council to require that any particular patent or appliance shall be used in the construction of the conduits hereinbefore provided for. And any company, corporation or individual so placing its wires under ground in any street, alley or public ground of said city shall, upon notice from the city or any of its departments, that a local improvement or sewer or water main, or branch thereof, is to be constructed in such a manner as will necessitate the moving or altering of the conduit or conduits of said individual, company or corporation, move or alter the same at its own expense so as to permit the construction of the improvement where ordered, and should any person, company or corporation omit to comply with such notice, the conduit or conduits may be altered or moved by the city and the cost and expense thereof recovered from such individual, company or corporation. To regulate the erection of telegraph, electric light or telephone poles, wires and cables, and other electrical conductors, and to require that such wires, cables or other electrical conductors be placed under ground, subject to such restrictions and regulations as it may make by general ordinance. But nothing in this section contained shall affect any grant or consent heretofore or hereafter made or given pursuant to general laws, as to any matter provided for in and by such grant or consent. Any inspector appointed under the provisions of this subdivision shall be a practical boilermaker, and shall hold office for three years, unless sooner removed for cause.

Thus amended by L. 1899, c. 557.

This amendment added the words in parentheses, which provide that railroad engineers, and engineers holding a U. S. license, who had previously been wholly exempt from city regulations, should thereafter be exempt only "while engaged in operating or running the locomotive engines of said railroads," or "while engaged in operating or running engines upon the waters under the jurisdiction of the United States, or of the State of New York." The amendment also added the provision for examination of a marine engineer and appeal and review of the result thereof.

(8.) To prevent and abate nuisances; to prohibit or regulate the blowing of steam whistles and the ringing of bells; to regulate or prohibit public pumps, wells, hydrants and reservoirs, and the use of them; to prevent the waste of water; to require the use of water meters; to establish and maintain public baths; to establish and regulate public markets; to locate, regulate and remove slaughterhouses, butchers' stalls, fish stands, livery stables, tanneries, and unwholesome or noisome buildings or places, and to compel the cleaning of the same whenever necessary; to regulate the construction of private and public sewers, sinks and privies, and the sale of meats, fish, and vegetables; to prevent the sale for domestic use of ice frozen from dirty or impure water; to prevent the adulteration of any article used for food or drink, and provide for the inspection thereof; to locate and regulate dead-houses; to prescribe limits within which there shall be no burials or incinerations of the dead; to purchase and maintain burial grounds; to regulate burials, incinerations, and funerals; to compel the keeping and return of bills of mortality, births, and marriages.

(9.) To prevent the encroachment upon, projections over, injury to, or the incumbering of streets, alleys, wharves, and public grounds; to light, to clean, and o water them; to regulate the use of them, and to declare in what manner, and for what purpose they shall not be used; to prohibit the running at large of horses, cattle, swine, sheep, goats and geese, or the pasturing of them

on the streets or public grounds, and to authorize the distraining, impounding, and sale of them for the penalty and cost of proceedings; to direct and to regulate the planting and pruning of trees in the public grounds and streets, and to protect them from injury; to compel the owners of vacant lands to fence or inclose them; to compel and regulate the numbering of buildings, and the naming of streets and alleys; to prevent and punish fraud in sales by weight or measure.

(10.) To require bonds or undertakings to be given by the officers of the city and their deputies, and to fix the amount thereof.

(11.) And such other and further ordinances not inconsistent with the laws of the state, as shall be deemed expedient for the good government of the city, the protection of its property, the preservation of peace and good order, the suppression of vice, the benefit of trade and commerce, the preservation of health, the prevention and extinguishment of fires, the exercise of its corporate powers, and the performance of its corporate duties. In case any power granted to the Common Council is also granted in whole or in part to any department or officer, such department or officer shall alone exercise such power to the extent to which it is granted to such department or officer.

(12.) The ordinances in force at the time this act takes effect, not inconsistent herewith, shall remain in force until rescinded or modified by the Common Council. Whenever the words "Common Council" or "Council" are used in such ordinances, the same shall mean the Common Council created by this act. Except that the Common Council existing at the time of the passage of this act shall have the power to fix salaries as provided in subdivision one of this section.

§ 18. Every ordinance and resolution of the Common Council, except resolutions making or approving appoint-

ments to office or place, designating the official paper, canvassing votes, adopting or altering Comptroller's estimates under section seventy of this act, shall be presented to the Mayor before it shall be of force. If he approves it, he shall sign it; but if not, he shall return it, with his objections, to the City Clerk, who shall lay the same before the Board of Aldermen at its next regular meeting thereafter. The Board of Aldermen shall enter the objections upon its journal, and proceed to reconsider the ordinance or resolution objected to. If, in the first instance, the ordinance or resolution required a majority vote to pass it, and if, upon such reconsideration, two-thirds of all the members elected to the Board of Aldermen shall agree to pass it, or if, in the first instance, it required a two-thirds vote to pass it, and upon such reconsideration three-fourths of all the members elected to the Board of Aldermen shall agree to pass it, it shall be presented by the City Clerk to the Board of Councilmen at its next meeting, with the objections of the Mayor, and a report of the action of the Board of Aldermen.

The Board of Councilmen shall reconsider its action, and if upon such reconsideration the ordinance or resolution shall receive a two-thirds vote of all the members elected to such board, in case it originally required a majority vote, or if it shall receive a three-fourths vote of all the members elected to such board, if it originally required a two-thirds vote, such resolution shall be of force. If any ordinance or resolution is not returned by the Mayor disapproved within ten days after its presentation to him, it shall be of force. It shall be sufficient to present to the Mayor a transcript of all resolutions for the mere payment of money. The City Clerk shall make a certificate of the time when an ordinance or resolution, which the Mayor has neglected for ten days to approve or return, was presented to the Mayor, which certificate shall be entered upon the journals of the Common Council, and shall be presumptive evidence of the facts therein stated.

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§ 19. Whenever the owner or occupant of any lands shall omit to do any act required by ordinance to be done by him in front of or upon such lands, the city may cause such act to be done, and, in addition to the fine, may recover by action, of such owner or occupant, the cost of doing the act, or may assess the same upon such lands.

§ 20. A fine for violating any ordinance enacted under the authority conferred by this act may be prescribed in the ordinance, not exceeding two hundred and fifty dollars. The ordinance may prescribe that the fine for its violation shall not be less nor more than a certain sum; in which case, the amount of penalty shall, within said bounds, be fixed by the court or officer before whom the matter shall be tried. A civil action may be maintained to recover a fine imposed by any ordinance enacted under the authority conferred by this act.

§ 21. An ordinance, passed under subdivision three of section seventeen of this act, may provide that any person, upon conviction of a violation thereof, shall be fined or committed to the Erie County penitentiary for such time as the court or officer before whom such person was convicted shall fix, not exceeding six months; in case the person convicted of such violation is fined and does not immediately pay such fine, he may be committed to the Erie County penitentiary for the term of one day for each and every dollar of said fine not paid. Such ordinance may authorize the arrest, by any person, without process of any one violating or attempting to violate such ordinance, in the presence of such person.

§ 22. All ordinances shall be published in the official paper daily for one week. An ordinance imposing a penalty shall not take effect until ten days after its first publication in the official paper.

§ 23. Actions to recover fines incurred under this title or the ordinances enacted pursuant to it, shall be brought in the name of the city. In the complaint in such action

it shall be sufficient to allege, generally, that the defendant has violated the provisions of said title or ordinance, stating the provisions thereof of which a breach is claimed and the amount for which judgment is demanded. The defendant may deny that he is guilty and give in evidence any special matter under such denial.

§ 24. If the action be brought in the Municipal Court of Buffalo, the first process may be a warrant or summons. If a summons, it may be returnable in not less than one nor more than six days, and shall be served at least one day before the time of appearance mentioned therein.

§ 25. Execution upon judgment for fine may issue immediately, and shall command the officer to whom it shall be directed and delivered, if the judgment and his fees shall not be immediately paid, to take the body of the defendant and deliver him or her, with a copy of the execution, to the keeper of the Erie County penitentiary; and said keeper shall confine such defendant in said penitentiary for the term of one day for each and every dollar unpaid upon said judgment, not exceeding six months, except in cases where judgment for a fine or penalty is recovered against a corporation, in which case an execution against the property of such corporation may issue for the collection of the amount of such judgment and costs.

§ 26. When an ordinance provides that a person convicted of breach of it may be sentenced to confinement in the penitentiary, the person charged with a violation of such ordinance shall be proceeded against in the way provided by law for proceeding against persons charged with the commission of a criminal offense.

§ 27. No liability for the breach of any bond or undertaking required by this act shall be released. Other liabilities to the city may be released by a resolution of the Common Council passed by a unanimous vote of all

the members elected to each board when approved by the Mayor; but fines and penalties incurred under this title or any ordinance may be released or remitted by a resolution of the Common Council passed by a vote of two-thirds of all the members elected to each board when approved by the Mayor.

§ 28. The Common Council, by a vote of two-thirds of all the members elected to each board, may permit the track of any steam railroad or railroad operated by any other motive power, and used for purposes other than the transportation of passengers only, to be laid in, along or across any street or public ground, except parks and park approaches. Nothing in this section shall prevent the Common Council, by a vote of two-thirds of all the members elected to each board, from permitting the track of a street railroad used solely for the transportation of passengers within the city, to be laid in, along or across any street or public ground, except parks or park approaches, subject to the provisions of any law then existing in relation thereto.

Thus amended by L. 1895, c. 805, Sec. 3.

This amendment struck out the following clause, which appeared at the end of the first sentence in the original charter: "but such permission shall not take effect until the just compensation, to which the city shall be legally entitled, shall have been agreed upon between the Common Council and the railroad company and paid, or shall have been ascertained and paid in the manner provided by the laws of the state regulating the condemnation of land by railroad companies."

§ 29. The city shall have the exclusive power to establish ferries and tunnels within the city, and may license and regulate, or prohibit those now established therein.

§ 30. Whenever any building, fence or other structure of any kind, or any part thereof, is liable to fall down, and endanger persons or property, the Common Council may order the owner of the building, fence or structure, or the owner or occupant of the premises on which such building, fence or other structure stands, to take the

same down, or any part thereof, within such time as it may direct. In case the order be not complied with, it may cause the removal to be made, and the expense to be assessed on the land on which the structure stood.

§ 31. The chairman of any committee of either of the boards composing the Common Council, shall have power to issue subpœnas for witnesses to appear, or to produce books and papers before the committee, to administer oaths to witnesses, and to examine them, and such books and papers. If any person duly subpœnaed as a witness should not appear, or, appearing, shall refuse to testify, or to produce such books and papers, the committee may report the failure of the witness to appear, or his refusal to testify, or to produce such books and papers to the board which appointed it. The said board may thereupon report such offending witness to any court of record or judge thereof, and said court or judge may make order as to the future appearance of the witness, or the production of such books and papers, and punish any failure to comply therewith as a contempt of court.

§ 32. This section, providing for division of wards into election districts and for appointment of inspectors of election, has been superseded by L. 1896, c. 909 (the Election Law) and L. 1904, c. 394 (creating the office of Commissioner of Elections in Erie County).

Chapter II.

THE CITY CLERK.

§ 33. On the first Monday of January, of each even numbered year, or as soon thereafter as practicable, the Common Council shall by joint ballot in joint session of both boards, a quorum of each board being present, elect a City Clerk, who shall be the Clerk of the City, and the Clerk of the Common Council. He shall hold his

office until his successor shall be appointed and has qualified.

Thus amended by L. 1899, c. 48.

This amendment substituted a biennial in place of an annual election of the City Clerk.

§ 34. He shall appoint, and may at pleasure remove, a deputy and such other subordinates as may be allowed him by ordinance.

§ 35. He shall, under the direction of each board composing the Common Council, make up the journal of the proceedings of each board respectively, and shall publish the same in the official paper as provided in section ten of this act. He shall prepare and sign all warrants on the treasury, and keep an account of them in books kept for that sole purpose. He shall countersign all licenses issued by the Mayor, and keep in proper books full minutes thereof. No such license shall be valid until countersigned by him.

§ 36. He shall receive, and pay over weekly to the Treasurer all moneys which by any law are paid to the Clerk of the city, and make a report thereof at the same time under oath to the Comptroller.

§ 37. *Whenever a ward is, for any purpose, to be regarded as a town, the City Clerk shall be deemed to be the town clerk thereof.

*Superseded by L. 1895, c. 369, Sec. 2, creating the office of Commissioner of Jurors in Erie County. See Sec. 137 below.

§ 38. He shall, as soon as practicable, notify in writing every officer of his election or appointment, and of the amount of his official bond or undertaking.

§ 39. All officers, before they enter upon their offices, shall subscribe and take the oath of office prescribed by the constitution, and file the same with the bond or undertaking required of them with the City Clerk, unless otherwise prescribed in this act. If any officer shall neglect for ten days after such notice to take and file with the City Clerk his oath of office, or his official bond or undertaking, the Common Council may declare the office vacant.

§ 40. The City Clerk shall report all officers who shall neglect to file their oath of office, or bond or undertaking, as required by this act or by this ordinance, to the Board of Aldermen at its next meeting after such default.

§ 41. The City Clerk shall make and sign a record, in a book to be provided for that purpose, of every ordinance enacted by the Common Council, and of the time of its first publication; and such record, or a copy thereof, authenticated by the Mayor, under the seal of the city, shall be presumptive evidence of the due passage of such ordinance, of the due publication thereof, and of the time of the first publication. Printed books of the ordinances, published, or purporting to have been published, by the order of the Common Council, shall be presumptive evidence of such ordinances; and that they have been regularly enacted and published, as required by this act, prior to the printing of them in such book.

§ 42. The City Clerk shall keep the records of all streets and alleys now or hereafter established in the city. The copies of the records of certain streets, roads and highways of the city, which were formerly in the town of Buffalo, and which have been entered in a book of record of said city, and verified by the oath of Henry Lovejoy, surveyor, shall have the same force in evidence as the original. A certified copy of any record of any street or alley shall be presumptive evidence of the existence of the street or alley.

TITLE III.

The Executive Department.

Chapter I.

THE CITY OFFICERS.

§ 43. The executive and administrative powers of the city shall be vested in the Mayor, the heads of depart-

ments hereinafter named, and such other officers as shall, from time to time, be created by law or elected or appointed by virtue of this act.

§ 44. There shall be the following departments:

(1.) Department of Finance.
(2.) Department of Assessment.
(3.) Department of Law.
(4.) Department of Police (and excise*).
(5.) Department of Health.
(6.) Department of Fire.
(7.) Department of Public Works.
(8.) Department of Parks.
(9.) Department of Public Instruction.
(10.) Department of Poor.

*Superseded by L. 1896, c. 112, the Liquor Tax Law.

§ 45. The Mayor, Comptroller, Corporation Counsel, Treasurer, Assessors, Commissioner of Public Works, Judges of the Municipal Court, Superintendent of Education, Police Justice, Justice of the Peace and Overseer of the Poor shall be elected, and all other officers shall be appointed as herein provided.

Thus amended by L. 1901, c. 228, Sec. 1.

The amendment struck out the word "one" before Commissioner of Public Works: previously one Commissioner was elected and two were appointed.

§ 46. No person shall be eligible to any city office unless he be an elector of the city, except as hereafter expressly provided. Treasurers shall be ineligible for reelection for the next term after the termination of their offices.

Thus amended by L. 1902, c. 23.

The amendment added the last sentence, making Treasurers ineligible for reelection.

§ 47. The Mayor, Comptroller, Corporation Counsel, Treasurer, Superintendent of Education, Commissioner of Public Works, Overseer of the Poor, Police Justice

and Justices of the Peace, shall each hold office for the term of four years, and the Assessors and Judges of the Municipal Court for the term of six years, except as provided in sections two hundred and seventy-one and three hundred and sixty-nine of this act as amended.

Thus amended by L. 1895, c. 805, Sec. 4, and L. 1901, c. 228, Sec. 2.

The terms of Mayor, Comptroller, Corporation Counsel, Treasurer, Superintendent of Education, Commissioners of Public Works, and Overseer of the Poor were changed from three to four years, and the terms of the Assessors from five to six years, in 1895. The amendment of 1901 provided for one Commissioner of Public Works, instead of three.

§ 48. The Comptroller, Treasurer, Superintendent of Education, Police Justice, Justices of the Peace, Overseer of the Poor, Corporation Counsel, and Commissioner of Public Works, shall execute and file with the City Clerk a bond or undertaking to the city with sureties in such sum as shall be fixed by ordinance, conditioned for the faithful performance of the duties of their respective offices, and for the accounting for and payment to the city of all moneys belonging to the city received by them, and shall, when required by the Common Council, execute and file a new bond or undertaking. All other officers and persons elected or appointed by the authority of this act may, by ordinance, be required to give a like bond or undertaking. The bond or undertaking of the Comptroller shall contain the further condition that he will pay over to the persons entitled to it, the money paid to him to redeem lands sold for taxes and assessments.

Thus amended by L. 1901, c. 228, Sec. 3.

The only change by this law was mentioning one Commissioner of Public Works, instead of three.

Chapter II.

§ 49. The Mayor.—The Mayor shall be the chief executive officer of the city, and shall maintain peace and good order, and enforce the laws therein. He shall see

that the duties of the various city officers are faithfully performed. He shall have power to investigate their acts, have access to all books and documents in their offices, and may examine them and their subordinates on oath. He shall have power to issue subpœnas for witnesses to appear before him, and testify upon such investigation, and to produce before him books and papers, and may administer oaths to such witnesses and examine them, and the books and papers produced by them. If any such officer or his subordinates, or any such witnesses shall refuse to appear or to produce such books or papers, or appearing shall refuse to testify, the Mayor may report such refusal to any court of record, of a judge thereof, and such court or judge may make an order for the future appearance of such person, or the production before the Mayor of such books and papers, and punish and disobedience of such order as a contempt of court. The evidence given by persons so examined shall not be used against them in any criminal proceedings. He shall have power to suspend or remove any officer, except officers whose removal is otherwise provided for by law, whether elected or appointed, for misconduct in office or neglect of duty. The grounds for such suspension or removal shall be stated in the order therefor, and no removal shall be made without reasonable notice to the officer complained of, and an opportunity given him to be heard in his defense.

§ 50. He shall have the custody of the seal of the city and shall authenticate the acts of the Common Council, and all instruments and papers authorized so to be authenticated.

§ 51. He may appoint, and at pleasure remove, a secretary and a license clerk, and such other subordinates as may be authorized by ordinance. A policeman shall be detailed to attend him and execute his orders.

§ 52. He shall, except as otherwise herein provided, issue all licenses authorized by the ordinances of the city.

All moneys and sums fixed for issuing licenses shall be paid to the Treasurer of the city, and no license shall be delivered to any person until due proof is made to the Mayor that such money or sums as is fixed for the issuing thereof has been paid to the Treasurer of the city. The Mayor shall make a weekly report to the Comptroller of the licenses issued by him. The Mayor may, upon reasonable notice to the person complained of, hear any complaint against any person to whom he has issued a license, and may issue subpœnas and compel the attendance of witnesses to testify on such hearing, and may annul such license or suspend it. He shall file a copy of his determination with the City Clerk within twenty-four hours after it is made.

Thus amended by L. 1902, c. 586.

Prior to this amendment fees for licenses were paid to the Mayor, who paid his receipts to the Treasurer weekly, at the same time reporting to the Comptroller.

§ 53. He shall perform such other executive duties as may be by ordinance or provisions of law devolved upon him, and shall recommend to the Common Council such measures as he may think expedient. He shall appoint all officers, agents, and servants whose election or appointment is not in this act otherwise definitely prescribed.

§ 54. If the Mayor shall be unable to perform the duties of his office in consequence of sickness or temporary absence from the city, he may designate an Alderman or Councilman to act in his place; if he shall be so incapacitated for more than ten days, without making such designation, the Board of Aldermen may do so. The person so designated shall perform the duties of the Mayor until the Mayor shall resume them. An Alderman or Councilman while performing such duties shall not act as a member of the Common Council.

§ 55. Nothing in this act contained shall be deemed to affect or limit the application to the city of Buffalo of

the provisions of chapter four hundred and ten of the laws of eighteen hundred and eighty-four, entitled "An act to amend chapter three hundred and fifty-four of the laws of eighteen hundred and eighty-three, entitled 'An act to regulate and improve the civil service of the State of New York, and the acts amendatory thereof and supplementary thereto,'" or any other general laws pertaining to the civil service. All expenses of executing said laws shall be deemed expenses of the Mayor's department, and a sufficient sum therefor shall be included in the annual estimates.

TITLE IV.

Chapter I.

DEPARTMENT OF FINANCE.

§ 56. There shall be a department of finance consisting of two offices, viz.: the Comptroller's office, of which the Comptroller shall be the head, and the Treasurer's office, of which the Treasurer shall be the head.

§ 57. Comptroller and Treasurer.—The Comptroller shall superintend the fiscal concerns of the city, and manage the same pursuant to law and the ordinances of the city, and shall be its chief fiscal officer. He shall keep an account of all warrants drawn on the treasury, and countersigned by him, in a book to be kept for that purpose. He shall keep full and accurate books of account, and shall countersign all receipts given by the Treasurer, and charge the Treasurer with the amount thereof. When money is paid to him to redeem lands sold for taxes and assessments, he shall, when the certificate of sale belongs to the city, pay the same into the treasury. He shall daily pay to the Treasurer all moneys received by him belonging to the city. He shall deposit all money so paid to him, when the certificate of sale

does not belong to the city, in one of the savings banks of the city, or in any of the banks in which moneys of the city are deposited, in trust for those holding such certificates. He shall pay over to his successor in office all moneys remaining in his hands, or under his control drawn from the city treasury to pay interest on or principal of the loans of the city, and all moneys received by him as Comptroller for any other purpose whatever.

Thus amended by L. 1895, c. 805, Sec. 5.

This amendment made banks of city deposit equally eligible with savings banks to receive deposits of money in trust for holders of certificates of tax sales.

§ 58. The Comptroller, by and with the advice and consent of the Common Council, shall appoint an Auditor, who shall have power, and it shall be his duty to examine and report upon all accounts or claims against the city for work, labor, services, merchandise or material furnished the city, before the same shall be audited and ordered paid by the Common Council. He shall ascertain, before reporting upon any such accounts or claims, that the work, labor, services, merchandise or material charged for in such account or claim have been actually furnished to and received by the city; that the prices charged are in accordance with the contract or agreement therefor, and that such prices are reasonable and just, and shall make a certificate to that effect upon each and every such account or claim. The Common Council shall not audit nor order paid any such account or claim against the city, unless the same shall have been so examined, certified, and reported upon by the Auditor. The Auditor shall have power and authority to issue subpœnas to compel the attendance of witnesses and the production of books and papers upon the examination before him of any account or claim against the city, and is authorized and empowered to administer oaths and affirmations to any person summoned and appearing on any such examination. Any willful and corrupt false swearing by any witness or person to any material fact

on such examination shall be deemed perjury, and be punished in the manner now prescribed by law for that offense; in case any person shall fail or refuse to obey such subpœna, or refuse to take, when required, the proper oath or affirmation, or to produce such books and papers, or shall refuse to answer any proper question, the Auditor may apply to a judge or justice of any court of record within said city for a subpœna to compel the attendance of such person, or the production of such books and papers before a judge or justice of said court to be examined respecting such account or claim. Thereupon the judge or justice shall direct the issue of a subpœna. The person so subpœnaed shall be examined before such judge or justice. Any person refusing or failing to appear and testify, or to produce such books and papers upon such examination when duly subpœnaed shall be deemed guilty of a contempt of court and punished accordingly. Persons so subpœnaed shall be entitled to the fees now allowed by law to witnesses in actions, but no claimant shall be entitled to any fees. The auditor shall keep books in which shall be entered all accounts and claims against the city presented to him for audit, together with a note of the action taken by him on each; he shall have authority to employ one clerk, and as many more as shall be from time to time authorized by the Common Council.

§ 59. The Treasurer shall receive all money belonging to the city, and keep an accurate account of all receipts and expenditures. He shall daily deposit all money received by him in the banks designated by the Common Council, subject to his own check when the same shall be countersigned by the Comptroller. He shall not check out any money so deposited, except to satisfy a warrant upon the treasury, or to transfer it, on the direction of the Common Council, to another deposit bank. He shall render a weekly statement in detail, under oath, to the Comptroller of the money received and disbursed by

him, specifying the funds on account of which, and the sources from which received, and the accounts for which such disbursements were made.

§ 60. Money shall be drawn from the treasury only upon warrants authorized by the Common Council, and signed by the Mayor and City Clerk, and countersigned by the Comptroller; each warrant shall specify the purpose for which it is drawn, and the fund out of which it is payable.

§ 61. The Treasurer, when he pays a warrant on the treasury, shall cancel it, and it shall not be reissued. A violation of this section shall be a misdemeanor.

§ 62. He shall, upon the presentation of a warrant on the treasury to him for payment, pay it, if there be sufficient funds in the treasury to the credit of the fund out of which it is payable. He shall prepare and sign a receipt for any money paid into the treasury. He shall procure such receipt to be countersigned by the Comptroller, before he shall deliver it to the person entitled to receive it.

§ 63. The Treasurer, upon conviction of having lent, or deposited in a bank not designated by the Common Council, or unlawfully appropriated to his own use, any money of the city received by him, shall be deemed guilty of larceny.

§ 64. No one but the Treasurer shall receive any money for the city, except fines and judgments recovered, unless authorized by this act or by special resolution of the Common Council.

Chapter II.

§ 65. General Fund.—The fiscal year shall begin on the first day of July.

§ 66. The Comptroller shall, on or before the first day of October in each year, present to the Common Council a detailed statement of the financial condition of the city. In such statement the available resources of the city and its liabilities falling due within the next fiscal year shall be separately stated. It shall show the receipts and expenditures of the preceding year, and the condition of the general and local funds.

Thus amended by L. 1894, c. 289, Sec. 1.

This amendment changed the date of the annual statement from April first to October first.

§ 67. The heads of the different departments and such officers as the Comptroller may request, shall on or before the first day of February deliver to the Comptroller a full and detailed estimate of the expenses, and the amount of money required in their respective departments and offices for the next fiscal year.

§ 68. The Comptroller, on or before the first day of March in each year, shall also present to the Board of Aldermen an estimate of the amount necessary to be raised by general tax to carry on the City Government, and to meet all the expenses and liabilities of the city for the next fiscal year, specifying in detail, and under separate and appropriate heads, the amount estimated for each department, or each office, or other purpose. In such estimate shall be included at least one hundred thousand dollars of the principal and the interest of the bonded debt of the city, due or to fall due within the next fiscal year. The Comptroller is hereby permitted and directed to credit, apply, and use all premium moneys heretofore realized upon the sale of bonds now credited to the local redemption fund of said city, as a resource of the city in the annual estimates of the city. Hereafter all premiums realized upon the sale of bonds shall be used and applied as a resource of the city in the annual estimates.

Thus amended by L. 1902, c. 231, Sec. 2.

This amendment made premiums on sales of bonds a resource of the general fund; such premiums having previously gone into the local redemption fund. See Section 14, above.

§ 69. Such estimate shall be entered at large upon the journal.

§ 70. After the expiration of one week from the presentation of such estimate, the Board of Aldermen shall proceed to consider the same, and by a vote of two-thirds of all the members elected, may alter or amend the same; and shall, on or before the 24th day of March, finally pass upon it, and at once report its action to the Board of Councilmen, which shall pass thereon on or before the 15th day of April, and may alter or amend the same by a vote of two-thirds of all its members elected. The estimate of the Comptroller shall stand as to all items not altered or amended by both boards, or disapproved or stricken out, or reduced by the Mayor as hereinafter provided, before May first. The estimate, as made by the Comptroller, or as altered or amended by the Common Council, may be adopted by a majority vote of each board, and if altered or amended, shall, upon its adoption, be entered at large upon the journal of each board. Upon the adoption of such estimate by the Common Council the same shall be forthwith transmitted to the Mayor, who may at any time before May 1st disapprove, strike out, or reduce any item of such estimate; but the sum of one hundred thousand dollars, to be applied to the payment of the principal of the bonded debt of the city, and to no other purpose, shall be included in such estimate as adopted by the Common Council, and this item shall not be disapproved or stricken out, or reduced by the Mayor.

Thus amended by L. 1903, c. 61.

This amendment shortened the time for consideration of the estimates by the Common Council and gave the Mayor power to strike out or reduce items.

§ 71. The sum total of the adopted estimate shall be raised by general tax.

§ 72. In such estimate may be included a sum not exceeding five thousand dollars for the celebration of the Fourth of July, the reception of distinguished persons, and for the purpose of providing for the due and proper observance of Memorial Day.

Thus amended by L. 1903, c. 355.

This amendment added provision for Memorial Day.

§ 73. The expenditures for each department, office or other purpose during the fiscal year, shall be kept within the estimate made for it, except that in cases where the Mayor, Comptroller, and Treasurer shall certify in writing that a greater amount than provided for in the estimates is necessary in any department of the city, the expenditures in any such department may be increased by the amount so certified by a two-thirds vote of the members elected to each board composing the Common Council, which vote shall be taken by calling the yeas and nays, and shall be entered upon the journals of the Common Council. The amount of such increased expenditures shall be included in the estimate for the ensuing year, as adopted by the Common Council, and may be temporarily borrowed on city certificates of indebtedness or met by the issue of bonds payable on the first day of July of the fiscal year next succeeding their issue. (Provided, however, that if any amount is raised to meet an increased expenditure in any department, office, or for other purpose, after the estimate for the fiscal year has been submitted by the Comptroller to the Common Council, the amount of such increased expenditure shall be included in the estimate to be submitted by the Comptroller to the Common Council in the next year, and the certificates of indebtedness or bonds issued to temporarily borrow the amount of such last-mentioned increased expenditure, shall be payable on the first day of July of the fiscal year for which such last-mentioned estimate shall be submitted to the Common Council.) No contract shall be authorized by the Common Council,

creating a liability to be paid out of the general fund, unless a majority of the members elected to each board composing the Common Council shall vote in favor thereof, which vote shall be taken by calling the yeas and nays, and shall be entered upon the journals of the Common Council. For the purposes of this section, each department, office, or other purpose, shall be credited with the amount included in the estimate for it; and it shall be debited with the salaries, and the certain and fixed sums to be paid out of it; and the other expenditures shall not exceed the balance remaining of the estimate. Contracts made in any form or manner, for an amount exceeding such balance, except contracts for the expenditures in excess of the estimates authorized hereby, shall not be binding on the city beyond such balance, and the excess may be recovered of the members of the Common Council, jointly or severally, who voted in favor thereof. When liabilities to the amount of such balance shall have been created, all contracts, made in any form or manner, for further expenditures or liabilities, shall not be binding on the city, but may be enforced against the members of the Common Council, jointly or severally, who voted therefor. If the Treasurer shall pay a warrant on the treasury, drawn in violation of this section, he shall not be credited with the amount paid upon such warrant.

Thus amended by L. 1903, c. 171.

This amendment added the words in parentheses.

§ 74. This section is omitted because of its temporary character. It made special provision for changing the beginning of the city's fiscal year from January 1st to July 1st.

§ 75. As soon after the adoption of any estimate as shall be practicable, the Comptroller shall apportion said tax upon the taxable property within the city, as set down in the assessment rolls of the year filed with him; and shall set down in a column, to be prepared for that purpose in said rolls, opposite to the several sums set

down on said rolls as the valuation of real and personal estates, the respective sums in dollars and cents to be paid as a tax thereon. He may correct any clerical errors in said rolls. He shall, on the first day of June, or as soon thereafter as practicable, deliver said rolls to the Treasurer. He shall, before delivering such tax-rolls to the Treasurer, enter thereon, in a column to be prepared for that purpose, opposite to each lot of land, the aggregate amount of all local assessments thereon, with the additions returned to him on or before the first day of May of that year as unpaid.

§ 76. Upon the receipt of said roll, the Treasurer shall give notice by publishing same in the official paper, and by posting the same in six public places in each ward, that the general tax-rolls have been received by him; that they will remain in his hands until the first day of March following, and that payment of the taxes and assessments thereon may be made to him at any time before the expiration of one month from the time said rolls were received by him without additions; that at the end of said month an addition of one per centum upon every unpaid tax and assessment will be added thereto; that an addition of one-half per centum will be made every month thereafter until the first day of March following, at which time an addition of five per centum upon every unpaid tax and assessment will be added thereto, and that thereafter all taxes and assessments will be charged with interest at the rate of six per centum per annum on the first day of each month until the same are paid, and such additions, interest, and fees shall be charged accordingly. On or before the first day of February in each year, the Treasurer shall give notice to all owners of land upon which there remains in his hands any such unpaid tax or assessment, by mailing written notice to their address as shown on the maps in the Assessors' office, and if no such address is shown, such notice shall be addressed to them at Buffalo, New

York, that if such tax or assessment is not paid on or before the first day of March next thereafter five per centum will be added thereto, as herein provided, and the same will be returned to the Comptroller for tax sale, but failure to give such notice shall not invalidate the tax or assessment or subsequent proceedings. Whenever any tax appearing upon said rolls shall be erroneously marked canceled or paid, the Treasurer shall, immediately upon the discovery thereof, notify the owner of the property upon which said tax was so canceled, that said cancellation was erroneous, and that such tax must be paid within thirty days from the date of such notice. Said notice shall be in writing, and shall be mailed to the address of such owner, as said address appears on the maps in the Assessors' office; if no such address is shown, such notice shall be addressed to him at Buffalo, New York; in case said tax is not paid within said thirty days, the Treasurer shall mark such tax, "Erroneously canceled," together with the date of such cancellation, and the lien of said tax shall be restored. If such tax is not restored before delivery of the rolls to the Comptroller, he shall place said tax upon the tax-rolls of a subsequent year, in a separate column, and said tax shall have the same force and be collected in the same manner as an original city tax for that year.

Thus amended by L. 1895, c. 805, Sec. 6; L. 1896, c. 809, Sec. 1; and L. 1898, c. 313.

§ 77. The city may recover by action the amount of every tax with the additions and interest unpaid on the first day of March aforesaid, with interest thereon at the rate of six per centum per annum, and the further sum of five per centum upon the amount of such tax, interest and additions, from the persons liable to pay the same, which shall remain unpaid for more than ten months after the delivery of the roll to the Treasurer. Such action shall be brought by the Comptroller in his name of office. The judgment obtained in such action, when docketed

in the office of the Clerk of Erie County, shall have priority over any other lien or incumbrance upon or transfer of the property charged with the tax for which such action was brought, and every purchaser or incumbrancer of said property whose incumbrance, lien or transfer shall have been recorded before the commencement of the action shall be made a party to said action.

Thus amended by L. 1892, c. 381, Sec. 2, and L. 1894, c. 34, Sec. 1.

Sections 78, 79, 80, 81 and 82 relating to collection of unpaid taxes, were repealed by Laws 1902, c. 573, Secs. 1–5.

§ 83. Interest on taxes and assessments shall not be computed for less than one month, and shall be computed up to the first day of the month following the day of payment.

Sections 84, 85, 86, 87, 88, 89 and 90 relating to collection of back taxes, were repealed by Laws 1902, c. 573, Secs. 6–10.

§ 91. On the first day of March, after the receipt of the general tax-rolls, the Treasurer shall return said rolls to the Comptroller, with his affidavit attached thereto, that the uncancelled taxes and assessments therein are unpaid, and that he has not been able to collect the same, and the Comptroller shall credit him with such returned taxes and assessments.

§ 92. Taxes and assessments can be paid to the Treasurer at any time before the rolls are returned to the Comptroller. Such taxes and assessments may also be paid to the Comptroller, with additions and interest, at any time after the return of the rolls to him, and before sale, with the addition of one dollar for expense of publication.

Thus amended by L. 1896, c. 809, Sec. 7, and L. 1902, c. 573, Sec. 11.

Chapter III.

LOCAL FUNDS.

§ 93. The Comptroller, on the delivery to him of a local assessment-roll, shall enter the name of the same and the total amount thereof in his books. He shall publish a notice in the official paper stating that the assessment-roll, naming and describing it, has been received by him, and that it will be held by him for two weeks; after which it will be delivered to the Treasurer. After the expiration of said two weeks, he shall deliver said roll to the Treasurer, unless in the mean time notice has been served on him, pursuant to law, that a writ of certiorari has been issued or has been applied for, or an action has been begun to review said assessment-roll or to test the legality thereof; in which case he shall hold the said assessment-roll for two additional weeks, and shall, after the expiration of said additional time, deliver said assessment-roll to the Treasurer, unless the court or the Common Council shall order him to return the said assessment-roll to the Common Council; or the proceedings to collect or enforce said assessment-roll are stayed by the court.

§ 94. The Treasurer, upon the receipt of such assessment-roll, shall cause the same to be properly indexed in a book to be kept by him for that purpose, and when the work for which said roll was made shall actually begin, shall publish a notice in five successive numbers of the official paper, that such roll, naming it, has been received by him, and that any assessment therein may be paid to him at any time before the expiration of one month from the first publication of the notice, without any addition. The department having the work in charge shall notify the Treasurer of the beginning of any work.

§ 95. Upon the expiration of one month from the first publication of such notice, the Treasurer shall add

one per centum to each of the unpaid assessments in such roll, and a like percentage shall, at the end of every month thereafter, while the roll remains in his hands, be added to each unpaid assessment.

§ 96. The method of paying such assessment shall be the same as that prescribed for the payment of taxes of the general tax roll.

§ 97. The Treasurer shall obtain each local assessment-roll, so that at all times payments may be made thereon, until the assessment is added to the general roll.

§ 98. All local assessments, when added to the general roll, shall be liens to the same extent as taxes levied in the general roll, and the same interest be payable upon them, and the same remedies and methods of collection shall apply to them as to such taxes under this act, except as herein otherwise provided.

§ 99. Every assessment for local improvements shall become a lien upon the property assessed, upon the first publication, by the Treasurer, of the notice that he has received the roll containing such assessment.

§ 100. An action may be brought in any court having jurisdiction thereof to determine the legality of an assessment for local improvements, and in such action the owner of a separate parcel of land may unite with one or more of the owners of other parcels assessed or attempted to be assessed, in the same assessment-roll. Such an action may be brought at the same time as, or after a writ of certiorari is granted, pursuant to the next section, or while such certiorari proceeding is pending, but it must be brought within one year after said assessment shall have become an actual or apparent lien upon the property assessed. Such an action may be brought and maintained, although the party or parties plaintiff shall not have appl'ed to the Board of Assessors to correct, amend or revise the said assessment, and shall not

have filed any objections to the said assessment-roll; and although the parties plaintiff, or some of them, have paid their assessments upon the said assessment-roll, in which case the parties who have so paid may ask for, and in a proper case the court may order restitution of the amounts paid by them with interest. But in such an action no relief shall be granted to the plaintiffs based upon any defects, irregularities or errors in the said assessment-roll which could have been reviewed and corrected by a writ of certiorari issued pursuant to the next section.

§ 101. A writ of certiorari may be granted to review and determine the legality of an assessment for local improvements by any court of competent jurisdiction upon the application of any person or persons aggrieved thereby. The owner of a separate parcel of land may unite with one or more owners of other parcels of land assessed or attempted to be assessed in the same assessment-roll in the application for such writ. Such writ shall be applied for in the form and manner, and the subsequent proceedings thereupon had shall comply with the provisions of article seven, of title two of chapter sixteen of the Code of Civil Procedure, relating to the writ of certiorari to review the determination of an inferior tribunal, except as is in this section expressly otherwise provided.

1. No such application shall be entertained unless the persons making the application, or some of them, shall have previously made complaint in relation to such assessment to the Board of Assessors, pursuant to law, or shall have filed objections to such roll with the City Clerk pursuant to law; but the proceeding to review such assessment by writ of certiorari shall not be confined to any grounds of complaint or objection which were presented to the said Board of Assessors, or in the said objections filed with the City Clerk.

2. Such writ may be applied for at any time after the said assessment-roll shall have been confirmed by the resolution of the Common Council, although such resolution may not have been approved by the Mayor, and before the expiration of two weeks from the publication by the Comptroller of the notice required by this act that such roll has been received by him.

3. The said writ of certiorari shall be directed to the city of Buffalo, which shall be known as the defendant. It may be served by delivering a copy thereof to the Mayor or the Corporation Counsel, and a copy to the Comptroller or his deputy, unless the court shall otherwise direct. Only one return to said writ shall be made and it may be verified by any one or more of said officers, or by any Assessor of the city. The return shall not be conclusive. Upon the return being filed, the cause may be heard at a general or a special term of the court, and either party may notice it for a hearing. If upon the hearing it shall appear to the court that testimony is necessary to the proper disposition of the matter, the court may take evidence or may appoint a referee to take such evidence as the court may direct, and report the same to the court, and such testimony shall constitute a part of the proceedings upon which the determination of the court shall be made.

4. The court shall have power at any stage of the proceeding to order any necessary or proper parties to be brought in by amendment, upon such terms as shall be just, and to direct how notice, if required, shall be given to them by personal service or by publication, and thereafter all parties so notified shall be bound by the proceeding, and the court shall have power to appoint an attorney to represent unknown or unrepresented parties, and to order the reasonable costs and expenses of all parties so brought in, otherwise than upon their own motion, to be paid by the city.

5. If it is established that the assessment is illegal for any reason, the court may order that said assessment

be canceled, and the same shall thereupon be canceled by the Comptroller and other proper officers in the city. Where it is alleged or established that the said assessment is irregular or defective on account of any imperfect description of the land sought to be assessed, or any defect or irregularity which can be corrected without prejudice to any of the parties interested therein or affected thereby, the court may order the assessment-roll so corrected or amended, or may order that the assessment roll be returned to the Common Council to annul or correct it pursuant to law.

6. The parties applying for said writ of certiorari, or any of them, may pay their assessments upon the said assessment-roll at any time, notwithstanding the pendency of said writ. In case it shall be determined that the assessment-roll is illegal for any reason, after the assessments or any of them have been paid, the court may make such orders in regard to restitution to the parties to said proceedings and to others, as shall be necessary to protect the rights of all parties, and may enforce said orders as judgments in an action.

§ 102. On or before the fifteenth day of March in each year, the Treasurer shall return each local assessment-roll not payable in installments which shall have been received by him more than two months prior to such fifteenth day of March, with the additions, to the Comptroller, and certify that all uncanceled assessments therein are unpaid.

Thus amended by L. 1906, c. 8, Sec. 1.

§ 103. When any work or improvement shall be ordered by the Common Council, the expense whereof shall exceed the sum of five thousand dollars, and is to be defrayed by money raised by local assessment, and in any case where such work or improvement shall be the paving of a street or alley whether the expense thereof shall be more or less than five thousand dollars, the

several assessments contained in any roll, made for the purpose of raising said money, shall be divided into five equal annual installments. The first installment shall be due and payable from and after the date of the first publication of the notice specified in section ninety-four of this act; and the remaining installments in one, two, three and four years from, and after the date of such publication. The second, third, fourth and fifth installments shall bear interest at the rate of five per centum per annum commencing one month after the date of such first publication, until they shall severally become due and payable. Monthly additions of interest shall be made to each due and unpaid installment as provided in section ninety-five of this act; commencing one month after said installment shall become due and payable.

Thus amended by L. 1906, c. 47.

§ 104. The Treasurer shall proceed with the collection of said roll in the manner provided for other assessments, and for such purpose, retain the roll in his possession at all times. On or before the fifteenth day of March of each year, he shall make a transcript from the rolls received by him more than two months previous thereto, of each unpaid installment which shall have become due and payable with the addition thereto, which transcript shall be delivered to the Comptroller to be spread on the general roll for that year, in the manner specified in section seventy-five of this act, and the Treasurer shall note on the original roll the installments so transferred. He shall continue the collection of the balance of said roll until on or before the fifteenth day of March in the following year, when he shall make a transcript of the second installment of the assessments on said roll which shall have become due and payable. He shall cause a transcript of said installments so due and payable with the additions thereon, to be delivered to the Comptroller to be spread on the general tax roll for that year, and shall note on the original roll the installment so trans-

ferred. He shall continue the collection of the balance of said roll until on or before the fifteenth day of March in the following year, when he shall make a transcript of the third installment of the assessments on said roll which shall have become due and payable. He shall cause a transcript of said installment so due and payable with the additions thereon, to be delivered to the Comptroller to be spread on the general tax roll for that year, and shall note on the original roll the installment so transferred. He shall continue the collection of the balance of said roll until on or before the fifteenth of March in the following year when he shall in like manner make a transcript of the fourth installment on such roll, which shall have become due and payable. He shall cause a transcript of said installment so due and payable with the additions thereon, to be delivered to the comptroller to be spread on the general tax roll for that year, in the same manner as hereinbefore provided, and note on the original roll the assessment so transferred. He shall continue the collection of the balance of said roll until on or before the fifteenth day of March in the following year, when he shall in like manner make a transcript of the fifth installment on such roll, which shall have become due and payable. He shall cause a transcript of said installment so due and payable, with the additions thereon, to be delivered to the Comptroller to be spread on the general tax roll for that year as hereinbefore provided, and note on the original roll the assessment so transferred. Annual interest shall be paid to the Treasurer on all unpaid installments at the time any one of them shall become due, and said Treasurer shall not receive payment of any installment after the first, unless interest then due on all installments shall be paid at the same time; if the annual interest is not paid, the Treasurer shall return such interest together with the installment then due, to the Comptroller, to be spread on the general tax roll of the year. The Treasurer may receive the whole of any assessments, with accrued

interest and additions, at any time before the same is returned to the Comptroller.

Thus amended by L. 1898, c. 314, and L. 1906, c. 8, Sec. 2.

§ 105. Whenever any work or improvement shall be or shall have been ordered by the Common Council, the expense whereof shall exceed the sum of five thousand dollars, and is to be defrayed in whole or in part by money raised by local assessment, and in any case where such work or improvement shall be the paving or repaving of any street or alley, whether the expense shall be more or less than five thousand dollars, the Common Council may, after such local assessment-roll shall have been confirmed, authorize the issue of bonds to an amount not exceeding four-fifths of said expense. Such bonds shall draw interest not to exceed four per centum per annum, and shall be payable one-fourth in one year; one-fourth in two years; one-fourth in three years, and one-fourth in four years from and after the first day of the next calendar month succeeding the confirmation of said assessment roll. All warrants drawn in payment of any local work or improvement above specified, shall be payable four-fifths out of the proceeds of such bonds, and one-fifth out of moneys collected upon the first installment of the assessment-roll made therefor. If sufficient moneys have not been realized upon the first installment of such assessment-roll to pay the warrants so drawn against said roll, or if sufficient moneys have not been realized upon any other installment to pay said bonds when the same shall be due and payable, the Comptroller may temporarily borrow on the credit of the city a sum sufficient to pay the same, and all moneys thereafter realized, on account of said assessment-roll or from sales for non-payment of assessments therein, shall be used and are hereby pledged to the payment of the amount so borrowed, and for the payment of such bonds. On the first Monday of each month the Com-

missioner of Public Works shall certify to the Common Council the total amount of all local work or improvements performed or contracted for during the preceding month—other than for the paving or repaving of a street or alley—and which is to be collected by local assessment upon the property benefited, and the Common Council may thereupon authorize the issue of bonds to such amount as it shall determine, not to exceed the amount so certified, payable at such time as shall be fixed in the resolution. Such bonds shall bear interest at not to exceed five per centum per annum, and shall be sold at not less than par. All warrants drawn in payment of any local work or improvement last above specified, shall be payable out of the proceeds of such bonds. All moneys collected upon any local assessment roll or upon sales for non-payment of any assessment therein, shall be used and are hereby pledged for the payment of the bonds issued for the purpose of raising money for the payment of the work or improvement for which such assessment-rolls were made. The Comptroller shall on the first Monday in each month, certify the amount of bonds, if any, falling due in that month, and the condition of the fund provided for the payment thereof, and the Common Council shall, upon said statement, determine the amount of bonds to be issued under the provisions of this section, and may determine that any work may be paid for by the issue of warrants drawn against the roll made to provide a fund for payment of the same, in which case warrants shall be issued as follows: When any work or improvement shall be ordered by the Common Council, the expense whereof is to be collected by local assessment upon the property benefited, the Common Council may, by resolution, direct warrants to be drawn on the Treasurer in payment for the same out of the funds in his hands arising from such assessment, applicable to the payment thereof. Warrants drawn by direction of the Common Council in payment of any work or improvement, the assessment for which is pay-

able in five installments, shall be drawn payable by the city on a day certain, for one-fifth of the amount of such improvement in one year from date, one-fifth in two years, one-fifth in three years, one-fifth in four years, and one-fifth in five years from date. Such warrants shall bear interest at a rate not exceeding four per centum from their dates, as the Common Council shall direct. The Comptroller shall direct, and the Treasurer shall pay warrants, with accrued interest thereon, at any time before they shall become due, if there shall be funds in his hands arising from such assessment applicable to the payment thereof, but none of such warrants shall be paid until all those which by their terms are sooner payable shall have been paid, unless he shall retain in his hands a sufficient amount to pay all such prior warrants. The Comptroller shall direct, and the Treasurer shall, when he shall have money in his hands applicable to the payment of such warrants, give notice in five successive numbers of the official paper—Sundays and legal holidays excepted—that he will pay all or any portion of such warrants, with accrued interest, on a day to be specified in said notice, and the interest on such warrants shall cease from and after the day specified in such notice. The Common Council may authorize the issue of bonds by the city for the purpose of raising money to take up, and pay all outstanding warrants heretofore or hereafter issued in payment of any local work or improvement. Such bonds shall be issued from time to time, as may be ordered by the Common Council, by the Mayor, and Comptroller, under the city seal; one-fifth of the principal thereof to be payable at the end of each year succeeding the issue thereof, until the whole sum shall have been paid. Any bonds so issued shall bear interest at a rate not to exceed three and one-half per centum per annum, to be fixed by the Common Council, and the same shall be sold or awarded as provided in section four hundred and ninety-two of the charter of the City of Buffalo, being the act hereby amended. If there shall not be sufficient

moneys to the credit of the work or improvements for which the assessment is made to pay such warrants, when the same shall become due, the Comptroller shall borrow on the credit of the city, if the Common Council shall by resolution so direct, a sufficient sum of money, which shall be deposited with the Treasurer, to pay the same, and the moneys arising from said assessment shall, when collected, be applied to the payment of the amount so borrowed, and to the payment of any bonds, which may be issued as provided in this section, to raise money to take up and pay outstanding warrants heretofore or hereafter issued before such warrants are due and payable, and to no other purpose. Nothing in this act contained shall be construed as in anywise affecting the rate of interest on warrants now outstanding on account of local work and improvements, or warrants which may be hereafter issued for local work or improvements for which bids have already been submitted to the city.

Thus amended by L. 1903, c. 166.

§ 105 (*a*). Whenever the Common Council shall order the construction of any main sewer or branch sewer in any sewer district or portion of a sewer district of the city, which is not already provided with main, and branch and lateral sewers, and where it is proposed according to the plan of drainage adopted for that sewer district or territory by the Board of Public Works, as provided in this act, that the side sewer shall be extended in the future by branch sewers and lateral sewers, or either, so as to reach territory not immediately drained by it, and the expense of constructing said sewer shall exceed forty thousand dollars, which facts shall be certified to the Common Council for its information, with or without its request, by the Board of Public Works, and shall be deemed for all purposes to be established by such certificate, the Common Council may, in its discretion, by a vote of two-thirds of its members elected to each board, direct that the expenses of constructing said

sewer, or so much thereof as is to be raised by local assessment, shall be assessed upon the property benefited thereby, and that the several assessments contained in any roll made for the purpose of raising said money, shall be divided into more than five, and not more than fifteen equal, annual installments, specifying the number of such installments; and the said assessments contained in any such roll shall thereupon be payable in equal, annual installments, according to such direction. The several installments of the assessments in such extended installment-rolls shall become due and payable; and shall draw interest in the same manner as is provided in section one hundred and three of this act for the five-year installment-rolls, and unpaid installments shall be returned by the Treasurer to the Comptroller in the same manner, and with the same result as is provided in section one hundred and four of this act, and any default in the payment of annual interest shall have the same result as is provided in said section one hundred and four, and all the provisions of said sections one hundred and three, and one hundred and four with reference to the five-year installment-rolls shall be applicable to said extended installment-rolls, except that the assessment shall be divided into the number of annual installments so directed by the Common Council. In case the Common Council shall so direct any assessment-roll to be extended over a period of more than five years, the bonds authorized to be issued by section one hundred and five of this act, in anticipation of the payment of the installments upon any installment-roll, may be issued to an amount equal to the total amount of said assessment-roll, less one installment, and said bonds shall be made payable in annual installments covering the same period that is fixed for the payment of the assessments in said roll, and all other provisions of said section one hundred and five relating to the issue of said bonds, and to warrants drawn in payment for any such local work or improvement, shall be modified accordingly, so as to extend over the

entire period during which such installments are payable. This section shall apply to any assessment-roll already made, but not yet confirmed by the Common Council.

Thus amended by L. 1892, c. 424.

This entire section was added by this amendment.

Chapter IV.

SALES OF LANDS FOR TAXES AND ASSESSMENTS.

§ 106. All taxes and assessments shall be a lien upon the lands upon which they are assessed for ten years from the delivery of the tax or assessment-roll to the Treasurer, and the first publication of notice of receipt of same, and shall have priority in the inverse order of time in which they become liens. If the proceedings to enforce such liens have been stayed by a court or judge the period of such stay shall not be taken as a part of said ten years.

§ 107. Upon the return by the Treasurer of the general tax rolls to the Comptroller, the Treasurer shall prepare and deliver to the Comptroller a transcript of the taxes and assessments upon lands returned by said Treasurer unpaid. Such transcript shall specify the amount of each tax and assessment, and the Comptroller shall place therein all additions and interest to the day on which the sale is to commence, and the further sum of five per centum upon the amount of each tax, assessment, addition, and interest. When there is more than one tax or assessment upon the same parcel of land, the description of such parcel shall be inserted in such statement but once. The Comptroller shall also charge each parcel of land included in such statement with one dollar, to cover expenses of printing and publication. All such additions, interest, fees, and expenses shall be a charge on the lands sold, and shall be added to and made a part of such tax.

Thus amended by L. 1898, c. 280, Sec. 1.

§ 108. The collection of every assessment, and of every tax upon real estate returned unpaid by the Treasurer may be enforced by a sale of the real estate by the Comptroller, while the tax or assessment is a lien. Such sale shall take place not later than the thirtieth day of June in every year.

Thus amended by L. 1898, c. 280, Sec. 2.

Prior to this the tax sale was required to be held in April or May.

§ 109. When the returned taxes and assessments are upon the same parcel of land, such parcel shall not be sold for less than the aggregate amount of them, but when they are upon parcels of different boundaries, although in part the same, each parcel shall be sold separately.

§ 110. The Comptroller shall cause to be published twice in each week, for three weeks, in the official paper, a list or statement of the real estate charged with the payment of such taxes and assessments, with additions, fees, interest, and expenses, and so liable to be sold, and also a notice that the said real estate will, on a day at the expiration of the said three weeks, to be specified in such notice, and the succeeding days, be sold at public auction to the highest bidder, at the city and county hall in the said city of Buffalo, to pay the taxes, additions, fees, interest, and expenses thereon, which may remain unpaid at the time of such sale; the expense of publishing such list and notices shall not exceed the sum of one dollar for each parcel of land so advertised. On the day named in said notice, the said Comptroller shall commence the sale of said real estate at auction to the highest bidder, and shall continue such sale from day to day until the whole thereof shall be sold; but the owner of any piece of land, or his representatives, may redeem the same at any time before the actual sale thereof, by paying the tax or taxes for which it is to be sold, with all accrued interest, additions, fees, and expenses. It

shall be the duty of the Comptroller to bid in for the city all parcels of real estate at such sale, which shall not be purchased by any other person at a rate sufficient to pay the taxes for which the land is to be sold, with all the accrued interest, additions, fees, and expenses.

§ 111. If the real estate shall sell for more than the amount of the tax, interest, additions, and expenses aforesaid, the surplus shall be paid over by the Comptroller into the Supreme Court, by delivering the same to the County Treasurer of Erie County; and such court shall ascertain and determine who is entitled to such money, and, if it shall appear that such proceedings are valid and regular, order and decree its distribution and payment to the person or persons entitled thereto. And if any of such surplus shall remain unclaimed in said court for the period of ten years, the same, with accrued interest thereon, shall, on application of the Corporation Counsel ,and after publication of notice that such application has been made in the official paper for ten successive issues thereof, Sunday and legal holidays excepted, be paid to the Treasurer of the city, and added to the local redemption fund.

Thus amended by L. 1895, c. 805, Sec. 10.

This amendment substituted the County Treasurer as depositary in place of the Clerk of the old Superior Court of Buffalo.

§ 112. The purchasers at such sale shall pay the amounts of their respective bids to the Comptroller within forty-eight hours after the sale, and thereupon the Comptroller shall execute to each purchaser, including the city, a certificate in writing, which shall contain a description of the real estate purchased, the amount paid therefor, the date of the sale, and that the same was sold for unpaid city taxes and assessments. Such purchaser or his legal representative or assigns, may, upon receiving such certificate, by virtue thereof, and of this act, lawfully hold and enjoy for his and their own proper use and benefit, and the use and benefit of his and their heirs

and assigns forever, the real estate described in said certificate, unless the same shall be redeemed as hereinafter provided. And he and his heirs and assigns may, and at any time after the time limited in the one hundred and fourteenth section of this act, for the redemption of such premises shall have expired, and the notice therein provided for been given, and said premises shall not have been redeemed as therein provided, and not before, obtain actual possession of the premises by an action at law or by causing the occupant of such real estate to be removed therefrom, and the possession thereof to be delivered to him in the same manner, and by the same proceedings, by and before the same officers as in the case of a tenant holding over after the expiration of his term without permission of his landlord.

§ 113. The city shall borrow, for a time not exceeding five years, money sufficient to pay its purchases at such tax sales, and place in the city treasury, to the credit of each tax and assessment for which sales were made, its portion. All moneys received on the redemption of lands struck off to the city at such sale, or for assignments of certificates of sale, shall constitute a fund for the payment of the money borrowed. As soon as practicable after the city shall have borrowed money, and placed it in the treasury as aforesaid, it shall be the duty of the Treasurer to publish a notice five days in the official paper, that he will pay all local fund warrants, the funds to pay which have been provided by the money so borrowed and placed in the treasury, at any time within ten days from the time of the first publication of such notice, and interest on such warrant shall cease at the end of ten days from the time of the first publication of such notice. If it shall appear at any time after passage of this act that the city is the owner of tax sale certificates, or tax deeds, or both, acquired by it, either at the annual tax sales of the city or otherwise, and that the real property covered by such tax sale certificates,

or tax deeds, or both, shall not have been redeemed from the tax sale or sales represented by such tax sale certificate or certificates, or tax deed or deeds, or both, and that the money borrowed by the city, as in this section provided, to pay for the purchases at the annual tax sales represented by such tax sale certificates, or tax deeds, or both, has been paid, it shall be lawful for the city to issue its bonds in a sum not to exceed the amount of money invested by the city in, and represented by such tax sale certificates, or tax deeds, or both; the interest on such last-mentioned bonds shall be payable semi-annually; one-tenth of the principal thereof to be payable each year after the issue of the same until the whole amount is paid; such last-mentioned bonds shall be issued, as the Common Council shall direct, by the Mayor and Comptroller, under the seal of the city, and shall be payable at such place as the Council shall designate, and such last-mentioned bonds shall be sold in the manner provided by section four hundred and ninety-two of the act hereby amended. The principal and interest of such last-mentioned bonds shall be payable out of the fund provided and created by this section, and there shall be raised, in each fiscal year after the issue of said last-mentioned bonds, by general taxation, an amount sufficient to provide necessary moneys in said fund to meet the payments of principal and interest of such last-mentioned bonds, and for that purpose it shall be the duty of the Comptroller to include and insert in the general fund estimates of the city in each year that said last-mentioned bonds shall be outstanding and unpaid, a sum sufficient to provide the necessary moneys for the fund created as above mentioned to meet the payments of principal and interest of such bonds.

Thus amended by L. 1903, c. 45.

This amendment added all from the beginning of the fourth sentence, "If it shall appear at any time," to the end of the section.

§ 114. The owner of, or any person interested in, or having a lien upon any real estate sold for taxes and

assessments, as aforesaid, may redeem the same at any time within nine months after the date of such sale, by paying to the Comptroller, for the use of the purchaser upon such sale, his heirs and assigns, the sum mentioned in the certificate given to him, and the interest on the amount of tax, additions, fees, interest, and expenses, at the rate of twelve per centum per annum, and on the balance of said sum at the rate of six per centum per annum, to be calculated from the date of such certificate, and in case such redemption shall be made after nine months, and before two years after the date of such sale, a further sum of ten dollars to pay for the expenses of searching, and publishing, and serving the notices herein prescribed. After the expiration of two years from the date of sale the Comptroller may receive the deposit last above set forth, but shall not record the redemption of such lands until the certificate issued by him upon such sale shall be returned to him canceled by the purchaser or his assigns, or its loss proven. Notice shall be given by the purchaser of any real estate sold for taxes under the provisions of this act to the occupant, owner in fee, registered agent of the owner, attorney in fact, whose power of attorney is recorded, trustee, mortgagee, or his registered tax agent, judgment creditor or purchaser upon any other city tax sale of the same property whose certificate is lien on said premises, and the heirs and assigns of any or either of them, and the guardian of any infants having any interest therein, and on any other person having a lien or claim on the premises affected by such sale, at any time after the expiration of nine months from the date of such sale, except that it shall not be necessary to serve such notice upon the city of Buffalo or the county of Erie, or the holders of county tax sale certificates. Such notice shall either be written or partly written and partly printed, and shall state briefly the lot or parcel of land to be redeemed, the amount due at the time of sale, the amount for which the property was sold and the expenses of making searches thereon,

the last day of redemption of any such real estate, and the office, or place, and hours when and where the money for such redemption can be paid, which office or place of business shall be in the city of Buffalo, and which hours shall be between nine o'clock in the forenoon, and four and one-half o'clock in the afternoon. The last day of redemption to be specified in said notice shall be not less than three months from the day of service of the same, nor prior to two years from the date of such sale. Such notice shall be served personally or left with some person of suitable age and discretion, at the residence or place of business of any and all persons entitled to such notice, if they or any of them reside in the city or have a place of business therein; and in case they or any of them do not reside or have a place of business in said city, then such notice shall be deposited, postage paid, in the post-office, addressed to them at the postoffice at or nearest to their known place of residence; and if the residence or address of any such person or persons be not known to the holder of such certificate, then such notice shall be deposited, postage paid, in the postoffice, addressed to them at the postoffice at or nearest to their reputed place of residence, and if, after diligent inquiry no information can be obtained as to their last-reputed place of residence, then said notice shall be deposited, postage paid, in the postoffice, addressed to them at Buffalo, New York. The expenses of mailing, serving, and publishing such notice shall be added to, and become a part of the amount required to be paid for the redemption of such real estate. The Clerk of Erie County shall, upon the application of any purchaser of any lot or lots, or his assignees, make a full and complete search of such property, including a tax search, setting out in full the facts upon the records of his office and elsewhere necessary to enable such holder to serve the notice herein required, and shall be entitled to charge therefor the sum of five dollars for a full and complete title search, and two dollars and fifty cents for a continuation of such search, and

one dollar for a tax search. It shall be the duty of the Comptroller whenever any parcel of land shall, under the provisions of this act, be struck off to the city, to seasonably procure from the County Clerk the necessary searches to enable the city to perfect its title to said lands, and he shall, in his annual estimate for his department, include a sufficient sum to enable him to carry the same into effect.

Thus amended by L. 1898, c. 280, Sec. 3, and L. 1902, c. 566, Sec. 1.

§ 115. If such real estate, or any part thereof, be not redeemed as herein provided, the Comptroller shall execute to the purchaser, including the city, its or his heirs, successors or assigns, upon surrender of said certificate, and upon the purchaser's taking and paying for an assignment of all outstanding prior tax liens held by the city upon the premises, a conveyance of the real estate so sold, which conveyance shall vest in the grantee an absolute estate in fee, subject to all claims which the city may have thereon for taxes or other liens or encumbrances. The Comptroller shall be entitled to demand and receive from such grantee, for the use of the city, the sum of one dollar for preparing such conveyance. Every such conveyance shall be attested by the Mayor and signed by the City Clerk, and the seal of the city attached thereto, and when so executed shall be conclusive evidence that the sale was regular, and also presumptive evidence that all proceedings prior to the sale, from and including the assessment of the lands sold, and that all notices required by law to be given previous to the expiration of the time allowed by law for the redemption thereof were regular according to law, and the provisions of this act. After six years from the date of such conveyance such presumption shall be conclusive. Every certificate or conveyance executed in pursuance of this act may be recorded in the same manner, and with like effect as a deed acknowledged or proved before any

officer authorized by law to take proof and acknowledgment of deeds.

Thus amended by L. 1898, c. 280, Sec. 4.

§ 116. It shall be presumed that every tax levied and assessment made is valid and regular, and that all the steps and proceedings required by law were taken and had, until the contrary shall be made to appear. Any action or proceeding commenced by any person or persons to test the validity or regularity of any tax levied or assessment made, shall be commenced within one year from the time of the delivery of the roll in which said tax or assessment is contained to the Treasurer, and the first publication of notice of receipt of same; the invalidity or irregularity of any tax or assessment shall not be available as a defense to any action or proceeding commenced after the expiration of one year from the delivery of the roll and publication as aforesaid, for the collection of said tax or assessment, or for the enforcement of any right or title, by virtue of any sale thereunder, unless an action or proceeding to test the validity or regularity of such tax or assessment shall have been commenced within the time hereinbefore limited for commencing the same, and shall be still pending, or such tax or assessment shall have been adjudged to be irregular and invalid.

§ 117. Whenever any purchaser under such sale, or his heirs or assigns, shall be unable to recover or retain possession of any real estate sold to him by reason of any irregularity or error in the assessment of any person or property, or the levying of any tax thereon, or in any proceedings for the collection of any tax, the Common Council shall reimburse the purchase-money so paid, with interest, from the time of its payment, at the rate of six per centum per annum, the amount thereof to be presented and audited as other city charges, and paid by the Comptroller; and thereupon the Common Council shall order a reassessment of any amount or sum so paid upon the same real estate or against the same person,

which shall for all the purposes of this act be deemed, and taken to be, an original general city tax or assessment as of the date of such reassessment.

§ 118. No action shall be brought or maintained upon any assessment for local improvements, except local assessments for sidewalks and crosswalks. The tax-roll, when delivered to the Treasurer, shall be presumptive evidence that all the previous proceedings, including the assessing and levying of the tax, were regular and according to law.

§ 119. Nothing contained in this act shall be held or construed as in any way affecting the validity or lien of any state or county tax heretofore levied or hereafter to be levied or assessed upon or against any lands in the city.

§ 120. The Common Council shall not, unless by unanimous vote, allow owners or others interested in lands sold to said city, for the non-payment of taxes or assessments, to redeem the same unless by the payment of the amount for which such sale shall have been made, and all accrued interest thereon, and the expenses properly charged thereon.

§ 121. The Comptroller shall enter and record in his office his proceedings upon such sales, and all certificates granted by him, and all redemptions, and all proceedings whereby sales are defeated or discharged. He shall also file and record all notices of sales published by him, together with his own affidavit, or that of the publisher or foreman of the official paper, of the publication of such notices, and of all other notices which have been given by him; and he shall keep a record of all certificates and conveyances made by him under section one hundred and fifteen of this act. When land has been sold for the non-payment of city taxes prior to the twelfth day of May, eighteen hundred and eighty, and no deed or declaration of sale has been granted on such sale, the owner of such

land may pay to the Comptroller the amount of the face of such sale, and the land shall from the date of such payment be free from any lien of said tax sale. The money so paid to the Comptroller shall be deposited in the general fund. The owner of any certificate of sale, the amount of which may have been paid to the Comptroller as aforesaid, shall, upon surrender thereof, and upon due proof of ownership, be entitled to receive from the city the amount so paid without interest.

Thus amended by L. 1901, c. 376, Sec. 1.

This amendment added the latter part of the section, relating to land sold for taxes prior to May 12, 1880.

§ 122. When it shall be discovered that the proceedings in ordering or levying any tax, or in ordering or making any assessment, have been so irregular as to render them illegal and void, the Common Council may annul them, or may annul all of them subsequent to and including the irregularity, and may begin the proceeding anew, or from the point where irregularity occurred.

§ 123. When any lands are imperfectly described in any tax or assessment-roll, the Common Council may direct the assessors to correct the description.

§ 124. The assessors, at any time before the lands are advertised for sale for the non-payment of the tax or assessment, and not after, may correct the imperfect description.

§ 125. A mortgagee of lands situate in the city, who resides out of it, may appoint an elector of the city as his tax agent, in the manner provided in this act. Upon the presentation of such appointment to the Comptroller, he shall file the same, and register the names in a book to be kept by him for that purpose.

§ 126. The holder of a certificate of sale shall be allowed twenty-five cents for every notice to redeem necessarily served, twelve cents for every affidavit necessarily made and filed, and the amount actually and

necessarily paid for publication, postage, and searches, not exceeding five dollars for a full and complete title search, and two dollars and fifty cents for a continuation of such search, and one dollar for a tax search. In case the city of Buffalo be the holder of such certificate of sale, such notice to redeem shall be served by a clerk, under the supervision of the Comptroller, and the fees allowed and collected for such service shall belong to the city of Buffalo, and be paid over to the City Treasurer. When the same person holds more than one certificate of sale on the same parcel of land, he shall be allowed for but one search. He shall make out a bill of the allowances claimed by him in items, naming the persons on whom the notices were served, and stating who was served as owner, mortgagee or occupant; and shall annex to it his affidavit that the charges in the bill are just, and were necessarily incurred, and that the notices charged were not served upon any person whom the law did not require to be served. He shall annex such a bill to a copy of the certificate of sale, and file the same with the Comptroller. If there be any dispute in respect to the bill, the Comptroller shall adjust it. If any redemption is made after the expiration of nine months from the sale, and before a bill of the allowances claimed has been filed, the person redeeming shall deposit with the Comptroller ten dollars. The Comptroller shall, with said ten dollars, pay the bill of allowances, when filed, which shall in no case exceed that sum, and return the surplus, if any, to the party who deposited it, on demand.

Thus amended by L. 1898, c. 280, Sec. 5, and L. 1902, c. 566, Sec. 2.

§ 127. If any person having a lien by mortgage or judgment, upon lands sold for taxes or assessments, shall redeem them from the sale, he may add the amount paid to redeem to his mortgage or judgment, and enforce it with interest as part thereof.

§ 128. Any person may pay any one or more taxes or assessments upon his property, leaving others unpaid, to be enforced in the manner provided by this act.

TITLE V.

Chapter I.

DEPARTMENT OF ASSESSMENT.

§ 129. Board of Assessors.—There shall be a Department of Assessment, of which a board, to consist of three Assessors, shall be the head.

Thus amended by L. 1902, c. 191, Sec. 1.

This law reduced the number of Assessors from five to three.

§ 130. The five Assessors in office at the time this act shall take effect shall hold their office during the term for which they were elected respectively. The Assessor whose term of office shall first expire shall be chairman of the board. No persons shall be elected or appointed to succeed the two Assessors whose terms of office first expire, and in case of a vacancy in the office of either or both of said two Assessors, said office or offices shall thereupon cease and determine, and the remaining Assessors shall constitute the Board of Assessors. The terms of office of Assessors hereafter to be elected shall be so arranged that the term of office of one Assessor shall expire at the end of each odd-numbered year. At the election to be held in the year nineteen hundred and five, two Assessors shall be elected, and they shall draw lots to determine who shall hold office for the full term of six years, and who shall hold office for four years.

Thus amended by L. 1902, c. 191, Sec. 2.

§ 131. At each municipal election Assessors shall be elected to succeed those whose terms of office will expire before the next municipal election..

Thus amended by L. 1895, c. 805, Sec. 11.

§ 132. A majority of the Board of Assessors shall constitute a quorum for the transaction of business.

§ 133. The Board of Assessors shall have the power of appointing and removing its subordinates. The number of subordinates, and their compensation shall be fixed by the Common Council.

§ 134. The Board of Assessors shall be the board of valuation and assessment for the city, and shall have such powers and perform such duties, in addition to those herein prescribed, as may be prescribed by general laws applicable thereto, and not inconsistent with the provisions of this act.

Thus amended by L. 1902, c. 191, Sec. 3.

The provision previously was that they should "have the powers and duties of Assessors of towns, except as otherwise provided by this act."

§ 135. No Assessor shall actually take part in apportioning the amount of a local assessment to be spread on any parcel of land in which he is interested, but he may take part in apportioning the other assessments in the same roll, and may sign the copy of the revised roll. If a majority of the Assessors shall be interested in the same parcel of land to be assessed in a local roll, the Mayor may appoint a sufficient number of electors of the city to act with the qualified Assessors in apportioning the amount of the assessment to be spread on such parcel. The persons so appointed shall take the oath of office which shall be annexed to the roll, and the copy of the revised roll shall be signed by them, as well as by the other Assessors, and they shall each receive five dollars a day for their services, which shall be paid out of the general fund.

Thus amended by L. 1895, c. 805, Sec. 12.

§ 136. The Board of Assessors shall keep in their office maps and surveys of all the taxable real property

in the city, certified by the Chief Engineer of the Department of Public Works, which maps and surveys shall show the location and boundaries of each piece of taxable real property, as nearly as practicable, and the name of the owner, or of one of the owners as shown by the conveyance presented to them. The Assessors shall have the power, and it shall be their duty, to make notations in pencil on such maps and surveys, showing changes in boundaries and ownership of the parcels of land indicated thereon, when such changes are made by deeds or subdivision maps filed for record in the office of the Clerk of Erie County, and not otherwise; and such notations shall be deemed to be a part of such maps and surveys. If any change is made in the boundaries of a parcel or parcels of land as shown on said Assessors' maps and surveys, by deed or by subdivision map filed in the office of the Clerk of Erie County, the Assessors shall, before changing said boundaries on their said maps and surveys, make a copy of said map or said parcel or parcels of land, which said copy shall de dated and certified by one Assessor to be correct, and shall be filed in the office of said board, and shall be deemed a part of said Assessors' maps and surveys. Reference shall be made to such maps and surveys in the annual assessment rolls, in all local assessment-rolls, in certificates of sale for unpaid taxes, in notices to redeem, and in all conveyances of property sold for unpaid taxes, and said maps and surveys shall be deemed a part of said assessment-rolls, certificates, notices, and conveyances of property sold. Reference to such maps and surveys in assessment-rolls may be made generally in the captions thereto. Every deed or other instrument of conveyance of lands in the city, and every subdivision map of land filed with the Clerk of Erie County shall, within forty-eight hours after said filing be presented by said County Clerk to said Board of Assessors, for the purpose of making the changes on their said maps and surveys asprovided for herein. If said County Clerk fails or refuses to present said deeds

or maps as aforesaid, he shall be personally liable to the city or to any person for any damages caused by said neglect or refusal. No map subdividing lots upon a new or proposed street, or purporting to show or dedicate a new street or proposed street, shall be filed in the office of said County Clerk or copied by said Assessors on their said maps and surveys, unless there is attached thereto a certificate of the Board of Public Works that said street has been duly accepted by the city pursuant to the provisions of section four hundred and two of this act. When lands have been marked upon the Assessors' maps in ink as a public street, avenue, alley or square, and a map or plot thereof has been filed in the Erie County Clerk's office by the owner, showing the same as a public street, avenue, alley or square, within fifteen years prior to the first day of January, eighteen hundred and ninety-five, or hereafter, and the same have been exempted from taxation at the instance, or with the consent of the owner, or where adjacent lands of the same owner have been conveyed and taxed, bounding on any such street, avenue, alley or square, the same shall be deemed to have been duly dedicated and accepted as such.

Thus amended by L. 1895, c. 805, Sec. 13, and L. 1901, c. 376, Sec. 2.

§ 137. *Each ward shall be deemed a town for the purpose of returning jurors, and the Board of Assessors shall select and return jurors under article second, title three, chapter ten of the Code of Civil Procedure.

*Superseded by L. 1895, c. 369, Sec. 2, creating the office of Commissioner of Jurors in Erie County.

Chapter II.

ANNUAL ASSESSMENT ROLL.

§ 138. The board shall prepare annual assessment-rolls of each ward, which shall consist of two parts. The first part shall contain the valuations of all the taxable lands of each ward, and in it the board shall set down:

1. The names of the owners of the taxable lands, so far as the same can be ascertained.

2. A brief description of said lands by reference to the Assessors' maps and surveys, and such further description as the board may deem proper.

3. The full and true value of said lands, exclusive of improvements.

4. The full and true value of the improvements on said lands.

5. The total value of said lands and improvements

The board shall also set down in said rolls, the names of the owners of special franchises, such description of the special franchises as will be sufficient to identify them, and the value of the special franchises as fixed by the state board of tax commissioners. If the special franchise is located in more than one ward, it may be set down in the roll of any ward in which it is located. No tax on real property, or special franchises, shall be invalid by reason of any error or omission in naming the owner or owners in said roll, and no tax upon lands described by reference to the Assessors' maps and surveys shall be invalid by reason of any error in the description of said land, if it is sufficiently definite to locate said land upon the Assessors' maps and surveys. The second part shall contain the names in alphabetical order of all the inhabitants of the city, corporations, and associations, deemed taxable in each ward upon personal estate, and opposite to each shall be set down the full value or his or its taxable personal estate. It shall complete the rolls on or before the second day of January in each year, and thereupon publish a notice in the official paper, twice a week for two weeks, that said rolls have been completed, and may be seen and examined at its office until a day specified in said notice, not less than twenty days from the first publication thereof. The rolls shall be open to public inspection during such time.

Thus amended by L. 1901, c. 376, Sec. 3, and L. 1905, c. 90, Sec. 1.

§ 139. During such time application may be made by any person considering himself to be aggrieved by the assessed valuation of his real or personal property, to have the same corrected. If such application be made in reference to the valuation of real estate, it must be in writing, stating the grounds of objection thereto, and thereupon the proper Assessor shall examine into the complaint, and if, in his judgment, the assessment is erroneous, the board may cause the same to be corrected. If the application be made in relation to the assessed valuation of personal estate, the applicant shall be examined under oath by an Assessor; and if, in his judgment, the assessment is erroneous, the board shall cause the same to be corrected.

§ 140. The rolls shall be carefully reviewed and corrected by the board. It shall make two copies of all rolls as revised and corrected, except that it shall not be necessary to include in said copies the separate valuations of said land and improvements, and shall attach thereto a certificate to the effect that they are correct copies of the rolls on file in the office of said board; and on or before the fifteenth day of February, it shall file one copy of each roll in the Comptroller's office, and shall deliver one copy of each roll to the clerk of the Board of Supervisors on or before the first day of October, which shall be the assessment rolls of the several wards for city, county, and state purposes.

Thus amended by L. 1901, c. 376, Sec. 4; L. 1902, c. 191, Sec. 4, and L. 1905, c. 90, Sec. 2.

§ 141. The Board of Assessors shall have the power to rectify any error committed in the making up of the annual assessment-rolls, and of the assessments for local improvements, in the following cases only:

1. When the error is entirely clerical.

2. When there is a mistake in the name of the party taxed or assessed.

3. When the real estate or the improvements thereon shall be erroneously described or stated.

4. When the property that has been assessed is by law exempt from assessment or taxation.

5. When a correction shall have been directed to be made in accordance with the provisions of section one hundred and thirty-nine of this act.

§ 142. When a tax or assessment has been or hereafter shall be imposed upon real property, any owner or mortgagee of said property may apply to the Assessors to have such tax or assessment divided and apportioned upon different parts of said property. If the Assessors shall deem it proper and feasible to divide and apportion such tax, they may make a statement showing the manner in which the division and apportionment should be made. At any time prior to the first day of March in the year succeeding the year when such tax or assessment became a lien upon such property, or on said first day of March the City Treasurer or other official custodian of the roll in which such tax or assessment appears, upon the presentation to him of the said statement of the Assessors, shall receive and receipt for the tax or assessment so divided and apportioned, and make the proper entry thereof on the tax or assessment-roll. Thereupon the real property upon which the part paid is apportioned shall be discharged from the lien of the said tax or assessment. But after said first day of March the City Treasurer or other official custodian of the roll, shall not receive or receipt for any such tax or assessment so divided or apportioned, except as hereinafter, and in this section provided. Thereafter any such owner or mortgagee may present to the Supreme Court, at any special term thereof, held in Erie County, a petition asking that such tax or assessment be divided and apportioned upon different parts of the property assessed, according to the state-

ment of the Assessors or otherwise. Such petition shall show the names of all the owners and mortgagees of said real property so far as the same are known or can be ascertained. The court may by order require the city and the owners and mortgagees of the property assessed to show cause why such tax or assessment should not be divided and apportioned. A copy of such order shall served personally upon the Corporation Counsel, and upon all the owners and mortgagees aforesaid within the state if known. The court shall give such directions as to the service of non-residents and unknown parties as it may deem proper. Upon the return day of such order to show cause the court shall hear the proofs and allegations of the parties appearing, and shall make such order as justice requires. If the court shall order the taxes or assessments divided and apportioned, it shall indicate the manner of division and apportionment. A certified copy of such order shall be filed with the officer having the custody of the assessment-roll, and also with the Assessors. An appeal from said order may be taken within ten days from the entry thereof, but not afterwards, by any person aggrieved. After the lapse of the time to appeal, any person may pay the tax or assessment or any part thereof as divided, and the real property upon which the part paid is apportioned shall be discharged from the lien of the said tax or assessment. All the proceedings with reference to said tax or assessment to such division and apportionment shall be the same, and with like effect as though the tax or assessment had been originally imposed as directed by said order, and a proper entry shall be made on the tax or assessment-roll. This section shall apply to real property heretofore sold for non-payment of taxes or assessments for which a deed has not been delivered; but if such property has been sold to any purchaser other than the city, no order shall be made as provided by this section if the holder of the certificate of sale shall appear and object thereto. No tax or assessment shall be deemed invalid by reason

of being assessed upon real property which has been subdivided or different portions of which are owned by different persons, and the remedy of such persons shall be confined to division and apportionment of the tax or assessment as in this section provided. The Comptroller, when adding a local assessment, or installment thereof, to the annual city tax rolls, shall, if necessary, apply to the Assessors to have such local assessment or installment divided and apportioned upon the different parcels of real property separately described in such annual city tax roll as nearly as may be, and the Assessors shall make such division and apportionment, and the said assessment or installment shall be added to the annual city tax rolls according to such subdivision or apportionment. A local assessment, or installment thereof, may be added to an annual city tax in any case where they are upon parcels of different boundaries but in part the same. Any owner or mortgagee of said property, or any part thereof, if not satisfied with said division and apportionment, may make application to the court to have such assessment or installment divided and apportioned as provided in this section, at any time within ten months after the annual city tax in the roll to which such assessment or installment is added becomes a lien.

Thus amended by L. 1899, c. 51; L. 1900, c. 707, Sec. 1, and L. 1907, c. 338.

Chapter III.

LOCAL ASSESSMENTS.

§ 143. The Common Council shall, unless otherwise provided by this act, estimate and fix the amount of money to be raised by assessment.

§ 144. All assessments shall be made by the Board of Assessors, and in the order in which they shall be esti-

mated and fixed, unless otherwise directed by the Common Council.

§ 145. The board shall assess the whole amount ordered to be assessed upon the parcels of land benefited by the work, act or improvement, in proportion to such benefit, except in those cases in which, by this act, the assessment is to be made upon a different principle, and in those cases it shall make the assessment upon the principle prescribed in each case by this act.

§ 146. In the assessment-roll, it shall briefly describe the several parcels of land assessed as nearly as practicable, and set down the amount in dollars and cents assessed on each parcel.

§ 147. If the name of any person is marked upon the books in the Assessors' office as the owner of any parcel, the Assessor shall enter it upon the assessment-roll, but their omission to do so shall not invalidate the assessment, and the inserting the name of a person deceased, alone or in connection with the words "estate of," for inserting the name of a person who is not the owner, shall not invalidate such assessment.

§ 148. After the roll is completed the board shall publish, in the official paper notice thereof, and shall state that the roll will remain in the office of the board, open for inspection and revision, for ten days from the publication of such notice. Any number of rolls may be included in one notice. Such roll, or rolls, shall remain open for inspection and revision during the time specified in the notice.

Thus amended by L. 1900, c. 707, Sec. 2.

The provision previously was that notice of completion of these rolls should be published on the first Monday of every month.

§ 149. Any person owning land in the city, but residing out of it, may appoint in writing, an elector of the city as his agent, to take care of the taxes and assess-

ments on his lands in the city. Such appointment shall be acknowledged. Upon the presentation of such appointment to the board it shall file the same, and register the name of the person making the appointment and the name of the person appointed, in a book to be kept by it for that purpose. The notice in such case required by the following section, shall be addressed to such agent.

§ 150. It shall be the duty of the Assessors to procure and have prepared at the expense of the city, and thereafter keep the same in the Assessors' office as a part of the records thereof, and accessible to the inspection of the public, a book or books of registration of suitable form and properly bound, in which shall be entered by the Assessors opposite to each parcel of land, the name and address respectively of resident owners of lands lying in the city, and of agents of non-resident owners of lands lying in said city, who shall have been appointed as such in pursuance of the foregoing section, to whom notices relating to the assessment-rolls are to be directed by the Assessors, as hereinafter provided. Such book or books shall be prepared in the same form as near as may be, as that in which the annual assessment-rolls are required to be prepared. Every resident owner and every such designated agent of non-resident owners of lands lying in said city shall furnish to and for the Assessors at their office, for the purpose of having the same registered as above provided, his or her name, together with an address to which the notice to such person, relating to the assessment-roll, as provided for in this section, is to be directed by the Assessors; and each and every change of address shall forthwith be made known to the Assessors by said owners or agents, and thereupon said Assessors shall enter in said book or books of registration the changed address. Every original or changed address shall be accompanied with a description of each parcel of land owned by such person, or the principal or

agent furnishing the same. The registers so kept by the Assessors shall show the date when the information herein required of the owners and agents in relation to their names and residences was furnished to the Assessors. When an assessment is to be made by the Assessors upon the parcels of land to be benefited by the work, act or improvement in proportion to such benefit, the Assessors shall, at least five days before the expiration of the time during which the roll is to remain in their hands for inspection and revision, deposit in the post-office in said city, postage prepaid, a notice directed to the sons whose names shall be entered on the roll, and which notice shall state that the roll, naming it, is on inspection and in every instance where the persons so to be notified shall have complied with the requirements of this section by furnishing to the Assessors their names and residences or place to which such notices are to be directed by the Assessors, such notices shall be directed to the name and such address of the person to be notified; in every other instance such notices shall be directed simply in the name of the person to be notified at Buffalo, New York. The validity or regularity of the service of any notice required to be served by the provisions of this chapter shall not be questioned or disputed by any person who by this section, is required to furnish to the Assessors for registration his or her name and address, who shall refuse, fail or neglect so to furnish to the Assessors his or her name and address, or who shall refuse, neglect or fail to report any and every change of address, should any such be made, as herein required.

§ 151. On the application of any person conceiving himself aggrieved, it shall be the duty of the board to hear and examine his complaint in relation to such assessment, and it shall be its duty to adjourn, from time to time, as may be necessary to hear and determine such complaint.

§ 152. The board shall make and sign a copy of the revised roll, and attach to it proof, by affidavit, of the giving of the notices required by this act to be given by it, and deliver the same to the Corporation Counsel. He shall thereupon cause the same to be examined as to the regularity of the proceedings. If they are found to be regular he shall annex his certificate of the fact to roll, and deliver it to the City Clerk to be proceeded with; if they are found to be irregular he shall annex to the roll his certificate of the fact, specifying in what the irregularity consists, and lay the same before the Common Council. The Common Council may take such action thereon as it shall deem expedient.

§ 153. When an assessment-roll shall be delivered to the City Clerk to be proceeded with, he shall publish a notice in five successive numbers of the official paper (Sundays and legal holidays excepted), that the roll, naming it, is in his office, and that objections to it may filed with him within ten days from the first publication of the notice. Any person interested in the roll may, within the time specified in the notice, file with the City Clerk objections to it, which objections shall be subscribed and verified by the objector or his agent. The City Clerk may include several rolls in the same notice. If no objections shall be filed within said time, the roll shall be deemed to be confirmed, and the City Clerk shall attach to it proof of the publication of the notice required to be published by him, and his certificate that no objections to it have been filed with him, and deliver the same to the Comptroller.

Thus amended by L. 1893, c. 200.

This amendment struck out a provision that, "The City Clerk shall report to the Common Council the rolls that have been confirmed by the lapse of time."

§ 154. If objections shall be filed with the City Clerk to such roll, he shall at the first regular meeting of the Common Council after the expiration of the time for filing

objections, lay such roll and the objections filed thereto before the Common Council, which shall, on that day or on such other day or days as it shall appoint, hear the objections and confirm the roll, or annul it, or refer it back to the Board of Assessors, to make a new assessment.

§ 155. Whenever an assessment shall have been sent back by the Common Council to the Board of Assessors to make a new assessment, the board shall forthwith proceed to make a new assessment, in the same manner as is provided for original assessments.

§ 156. Upon the confirmation of any roll, the City Clerk shall attach to it proof of the publication of the notice required to be published by him, and his certificate that the roll has been confirmed, and deliver the same to the Comptroller.

§ 157. The Common Council may by resolution determine that a street or any part thereof is not in suitable condition to proceed with a local improvement as a whole, and may direct the Assessors to divide the assessment-roll made or to be made by them to defray the expense of such improvement, and to make the same in two or more parts, to be designated and known, the first as part one, and the others by successive numbers, respectively, and may also direct that either of said parts shall remain in the office of the Comptroller after it shall have been delivered to him, or returned to him in case it had been delivered to the Treasurer for such time as it may direct, not exceeding one year, then to be proceeded with pursuant to the provisions of this act.

Thus amended by L. 1895, c. 805, Sec. 14.

Before this amendment a roll could only be divided by a court order, granted on the resolution of the Common Council.

§ 158. In all cases where the Common Council shall have power to order an assessment, and such asssesment shall finally be declared void by reason of any irregulari-

ties or defects occurring after such order, in an action or proceeding brought to determine the legality of the same, the Board of Assessors shall forthwith proceed to make a new assessment for the work or improvement for which the void assessment was ordered; in the same manner as provided for original assessment. In case the Board of Assessors shall neglect for six months to make a new assessment, as herein provided, any citizen may bring an action to compel the Board of Assessors to make such new assessment, and the Assessors shall severally be liable for the costs of such action.

§ 159. No lands in the city shall be exempt from local assessments.

§ 160. Whenever any person or corporation shall occupy any public ground or place of the city by permission of the Common Council, such person or corporation shall be assessed by the Assessors for any local improvement benefiting the ground or place so occupied the same amount they would assess such ground or place if not so occupied; and when such occupant is so assessed, such public ground or place so occupied shall not be assessed for such improvement. The Comptroller may maintain an action in his name of office against any person or corporation for the amount of such assessment together with the interest and expenses thereon, and the cost of the action at any time after the Treasurer shall return to him as unpaid any such assessment.

TITLE VI.

DEPARTMENT OF LAW.

§ 161. There shall be a Department of Law, which shall have the charge and conduct of all the law business of the city and its departments.

§ 162. The Corporation Counsel shall be the head of the Department of Law. He shall be an attorney and counselor of the supreme court of at least eight years' practice, and shall hold his office for the term of four years, and until his successor shall qualify.

Thus amended by L. 1895, c. 805, Sec. 15.

The amendment changed the Corporation Counsel's term from three to four years.

§ 163. The Corporation Counsel shall prosecute and defend all actions and proceedings brought by or against the city or any of the departments. He shall, when requested, advise all the officers and departments of the city in respect to their powers and duties. He shall prepare proper forms of contracts, bonds and obligations, and of all proposals for public works. He shall also, when requested by the head of any department, prepare such legal instruments as may be needed by any such department. He shall also have the charge and conduct of all legal proceedings by which the city shall exercise the right of eminent domain. He shall also discharge such other duties as may properly pertain to the legal department of the city.

§ 164. The Corporation Counsel shall not receive to his own use any fees or emoluments in addition to his salary, and shall pay into the treasury all costs and commissions collected by him; such payments shall be made monthly, and a report under oath be made at the same time to the Comptroller.

§ 165. The Corporation Counsel shall appoint two assistants, to be called respectively the Attorney and the Assistant Attorney, and file certificates of such appointments with the City Clerk. He shall also appoint a managing clerk, a clerk, and a messenger, and such other subordinates as may be authorized by the Common Council.

§ 166. The Attorney shall be an attorney and counselor of the supreme court of at least four years' practice, and shall, under the direction of the Corporation Counsel, have charge of all the litigated business of the department. The Assistant Attorney shall be an attorney and counselor of the supreme court of at least two years' practice, and shall, under the direction of the Corporation Counsel, have charge of the examination of assessment-rolls. The managing clerk shall be an attorney and counselor of the Supreme Court, and shall, under the direction of the Corporation Counsel, have charge of keeping the records required to be kept in the Department of Law. They shall each perform such other duties as the Corporation Counsel may assign to them.

§ 167. Within ten days after the recovery of any judgment the Corporation Counsel shall file with the Comptroller a statement, showing the amount of the judgment, the time of its recovery, in what court, and against whom it has been obtained.

§ 168. Upon taking office the Corporation Counsel shall be deemed to be substituted as attorney of record in all actions and proceedings in which the city or any of its departments is a party, and it shall not be necessary to enter any order to that effect.

§ 169. At the expiration of his term of office the Corporation Counsel shall deliver over to his successor all property of the city, or any of its departments, and all papers that shall be in his possession, and he shall not be retained by the city in any cases, except under extraordinary circumstances, and at the request of his successor, and with the approval of the Common Council and Mayor.

§ 170. There shall be kept in the Department of Law, registers, in which shall be entered the title of every action and proceeding which the Corporation Counsel is required to prosecute or defend, and an abstract of the

several steps taken therein, and the date thereof, and the result of such actions and proceedings. Such entries shall be made as soon as practicable after the action or proceeding is commenced, or the step taken. It shall be the duty of the Corporation Counsel to see that such registers show fully and correctly the status of each action and proceeding at the expiration of his term of office.

§ 171. It shall be the duty of the Corporation Counsel to cause all claims for personal injuries to be thoroughly investigated, and to that end he may take proof, examine witnesses, and require the claimant, with the privilege of counsel, to appear before, and be sworn by a judge of a court of record, the Mayor, or chairman of any committee of either board of the Common Council, and answer orally any question relative to, or that may assist him in ascertaining the city's liability or the extent thereof, he shall advise the proper committee of the Common Council in respect thereto. The claimant may designate another time and place for the examination if he shall be physically unable to so appear. Such examination shall be held within forty days after the presentation of such claim, but the time therefor may be further extended by any judge of a court of record on notice to both parties. No action shall be commenced on any such claim where such examination has been required until the same is held. There shall also be kept in the Department of Law an accident report book, in which the Corporation Counsel shall cause to be entered the names of all persons reported to him, or coming to his knowledge, as having received injuries for which claims are likely to be presented against the city, together with the names and residences of the witnesses, and the time and place of the accident, and he shall cause to be entered therein from time to time, the names and residences of all witnesses and a statement of all facts that shall be discovered by him or shall come to his knowledge concerning each of

said cases. Such accident report book shall only be open to the inspection of the Mayor or Common Council.

Thus amended by L. 1895, c. 805, Sec. 16.

This amendment added the last sentence and also the provisions for the examination of the claimant and witnesses under oath.

§ 172. The Attorney shall, in the absence or inability of the Corporation Counsel to perform the duties of the office, and during a vacancy therein, perform the duties thereof; before entering on the office he shall take the oath of office prescribed by the constitution, and execute with sureties, and file with the City Clerk a bond or undertaking in such sums as shall be fixed by ordinance, conditioned for the faithful performance of his duties, and the payment over of all moneys received by him.

§ 173. The Corporation Counsel, on assuming office, shall file with the Comptroller an inventory of all records and books belonging to the city that shall come into his possession, and shall report to the Comptroller all additions thereto, and he shall be responsible to the city for the delivery over to his successor of all such books and records.

§ 174. The Corporation Counsel shall give a bond with two sureties, in such sum as shall be fixed by ordinance for the faithful performance of the duties of his office.

§ 175. The Corporation Counsel shall annually transmit to the Common Council at its last session in each year, a report of the business done in the Department of Law during the year.

§ 176. The Corporation Counsel in office at the time this act takes effect shall continue to be the Corporation Counsel for the balance of the term for which he was elected.

§ 177. A failure to comply with sections one hundred and seventy, and one hundred and seventy-one of this act

shall be deemed a misdemeanor, and shall be punishable by fine not exceeding one thousand dollars.

§ 178. The Common Council may, from time to time, on the written recommendation of the Corporation Counsel, authorize the Comptroller to borrow, temporarily, a sum sufficient to pay any judgment against the city, or any claim against the city which has been settled or compromised, and not arising upon contract.

§ 179. The Common Council shall, in each year, place in the estimates a sum sufficient to pay the amount so borrowed the next preceding year, and the interest thereon.

TITLE VII.

Chapter I.

DEPARTMENT OF POLICE AND EXCISE.

§ 180. There shall be a Department of Police, and a Department of Excise* which shall have charge of all police and excise* matters of the city. No person holding office under this title shall be liable to jury or military duty.

*Superseded by L. 1896, c. 112, the Liquor Tax Law.

Thus amended by L. 1893, c. 437, Sec. 1, and L. 1894, c. 35.

The above is identical with Section 180 of the charter as originally adopted. L. 1893, c. 345, amended Sections 181, 182, and 183 by legislating out of office the Commissioners then in office, and providing that their successors, to be named within ten days, and all Commissioners thereafter to be appointed, should be named by the Mayor, the Comptroller, and the President of the Common Council, or a majority of them; this law took effect April 12, 1893. April 20, 1893, the Governor signed L. 1893, c. 437, which added the following to Section 180, as above printed: "Within ten days after the passage of this act the Comptroller of said city shall appoint three Commissioners of Police, who shall hold office respectively for the terms of four, five, and six years. They shall also act as Excise Commissioners for said city. At no time shall there be more than two Commissioners of Police from the same political party.

All acts and parts of acts inconsistent with this act are hereby repealed. Said Commissioners are not required to give bonds.''

The amendment of 1894 legislated out of office the Commissioners appointed in 1893, and restored this and the next three sections to their original form.

§ 181. The Department of Police shall consist of a Board of Police, a police force, and of such clerks and employees as are authorized by this title to be appointed. The Board of Police shall consist of the Mayor, ex-officio, who shall be the president of the board, and preside at its meeting when present, and two Commissioners of Police, who shall be appointed as hereinafter provided. But nothing in this title contained shall be deemed or construed as making it obligatory upon the Mayor to attend the meetings of said Board of Police, except when requested in writing by the Commissioners of Police or either of them. *The Department of Excise shall consist of a Board of Excise, and of such clerks and employees as are authorized by this title to be appointed. The Board of Excise shall consist of the two Commissioners of Police, acting as Commissioners of Excise.

*Remainder of this section superseded by L. 1896, c. 112, Liquor Tax Law.

Thus amended by L. 1893, c. 345, Sec. 2, and L. 1894, c. 35.

See note to Section 180, above, for effect of amendments.

§ 182. Within thirty days after the passage of this act the Mayor of the city of Buffalo shall appoint two Commissioners of Police, who shall hold office for the terms of five and six years, respectively, from the date of their appointment, and until their successors shall qualify and enter upon the duties of their office. The certificate of appointment shall designate the term for which each of said Commissioners is appointed, whether five or six years. Upon the appointment and qualification of such Commissioners of Police, the terms of office of all the present Commissioners of Police shall cease. One of said Commissioners shall be designated by the board as Acting

Commissioner. The Acting Commissioner shall in the absence of the president, possess the power and perform the duties of the president, and shall serve as Acting Commissioner until his term of office as Commissioner shall expire, or until another Commissioner shall be designated as the Acting Commissioner. A Commissioner of police shall thereafter be appointed by the Mayor at the expiration of each term of office, who shall hold his office for the full term of six years, and until his successor has qualified and entered upon the duties of his office; at no time shall there be two Commissioners of Police from the same political party.

Thus amended by L. 1893, c. 345, Sec. 3, and L. 1894, c. 35.

See note to Section 180, above.

§ 183. Each Commissioner of Police, before entering upon the duties of his office, shall subscribe and take before the City Clerk, the oath of office required to be taken by judicial officers, which oath shall be filed in the office of the City Clerk. If a vacancy shall occur in the office of Commissioner of Police from any cause other than the expiration of the term, the Mayor shall appoint a person to fill such vacancy, who shall hold office by virtue of such appointment for and during the unexpired term of the Commissioner whom he shall succeed, and until his successor shall qualify and enter upon the duties of his office. The Commissioners of Police shall be citizens of the United States, and electors of the city of Buffalo, and shall have resided in the city for at least five years next preceding their appointment.

Thus amended by L. 1893, c. 345, Sec. 4, and L. 1894, c. 35.

See note to Section 180, above.

Chapter II.

THE DEPARTMENT OF POLICE.

§ 184. The Commissioners of Police shall receive such annual salary as may be fixed by the Common Council

by ordinance. They shall not be interested in the purchase or sale of any lands for police purposes, in the construction or repair of station houses, nor the manufacture, purchase or sale of any article in the department. If any such Commissioner shall be so interested, or shall neglect his official duties, or be guilty of malfeasance or misconduct in office, he shall be removed by the Justices of the Supreme Court resident in the county of Erie, but no removal shall be made unless upon charges, or unless the party charged shall have been served with a copy of the charges, and have an opportunity to be heard. Such charges may be presented to a Justice of the Supreme Court, resident in Erie County, who shall fix a time and place for the hearing thereof, not less than twenty days after the presentation thereof to him, and shall notify or cause to be notified all the other Justices of the Supreme Court, resident in Erie County, of the presentation of such charges, and of the time and place fixed by him for the hearing thereof, and it shall be the duty of the said Justices to assemble at the time and place so fixed, and hear and determine the same, but no Commissioner shall be removed from office upon any charges except by the affirmative votes of a majority of all the said Justices of the Supreme Court, resident in Erie County. Such hearing shall be in the city of Buffalo, and the accused shall have an opportunity to present evidence in his own behalf, and to be represented by counsel. The Board shall hold meetings as often as may be necessary, and shall make rules to govern its proceedings.

Thus amended by L. 1892, c. 379; L. 1894, c. 35, and L. 1899, c. 587.

The act of 1892 amended the first sentence by requiring the Common Council to meet immediately in joint session and fix the salary of the Police Commissioners. The act of 1894 changed the first sentence back to its original form, as above. The act of 1899 transferred from the Appellate Division to the Justices of the Supreme Court in Erie County the power to remove the Police Commissioners on charges.

§ 185. The Board shall have charge of all the property of the department, of the purchase of the supplies used by the department, and of the repairs necessary to any of the property under its control, except the repairs of police buildings, which shall be in charge of the Department of Public Works, and be done on the recommendation of the Police Department and order of the Common Council. The Department of Public Works shall provide such office and business accommodations, station-houses, sub-station-houses, and other buildings, as the Department of Police may from time to time deem necessary for the transaction of the business of the department, and as may be ordered by the Common Council, and the Police Commissioners may establish stations, and station-houses, and sub-station-houses, at least one in each precinct, for the use of the police force, and as places of detention for persons arrested; and for that purpose it may appropriate and use any police station used as such at the time this act takes effect. The Board shall, as speedily as possible after this act becomes operative, designate at least three of such station-houses at which all women arrested in the city shall hereafter be detained, in each of which said station-houses a matron shall be appointed, in accordance with the provisions of chapter four hundred and twenty of the laws of eighteen hundred and eighty-eight. And it shall be the duty of said Commissioners to see that the provisions of that act are carried out with reference to the care and detention of all women arrested in the city, so far as the same may properly come within their province and duties as such Commissioners.

§ 186. The Board shall possess and exercise all the powers conferred by law upon the Mayors of cities, and the sheriffs of counties in requiring the services of the military in aid of the civil authorities to quell riots, suppress insurrections, protect property, and preserve public tranquility; and in case the Board shall neglect or refuse

to act, the Mayor may exercise any of the powers given by this section to the Board.

§ 187. The Board shall appoint the following subordinates, who shall constitute the police force of the city: A superintendent of police; three inspectors of police; also one captain, three sergeants and three desk sergeants for each precinct, a surgeon of police, a clerk of the Board, and such number of patrolmen as the Common Council shall authorize, and patrol wagon drivers, not less than three for each patrol wagon district to be established by the Board, and a superintendent of horses, who shall have the rank and pay of a sergeant; and all hostlers and prison van drivers now in the employ of the Police Department, and such others as shall hereafter be appointed by the Board of Police. One of the inspectors of police shall be designated by the Board to act as the head of the detective bureau of the police force, and while serving in such capacity he shall be known officially as chief of detectives, and shall receive in addition to his salary as an inspector of police, the sum of two hundred dollars annually while serving in such capacity. In case of the absence of the superintendent of police, or in case of a temporary vacancy in the office of superintendent of police, after the abolition of the office of assistant superintendent of police, as provided in this act, the Board shall designate one of the inspectors of police to perform the duties of such office during such absence of the superintendent, or during the temporary vacancy in such office. The term "desk sergeants" in this act covers all members of the force who were appointed under the name of "doormen" or "operators." The Board may also appoint, in addition to the police force, such clerks and employes as it may deem necessary for the proper management and working of the department. It may reduce to a lower grade or rank all members of the police force, and all other employes as hereinafter provided. The officers and other members of the police force who

are in office when this act takes effect shall continue in office, and hold their respective positions, unless reduced in rank or removed pursuant to the provisions of this act. Lieutenants in charge of precincts at the time this section of this act takes effect shall remain as members of the police, and shall rank as captains of their respective precincts, but may be removed or reduced in rank by the Board, as provided in section one hundred and ninety-two of this act.

Thus amended by L. 1893, c. 437, Sec. 2; L. 1896, 184, Sec. 1; L. 1900, c. 656, Sec. 1; L. 1902, c. 551, Sec. 1, and L. 1904, c. 395, Sec. 1.

The amendment of 1893 increased the number of Sergeants in every precinct from two to three. The law of 1896 added to the force two inspectors and a superintendent of horses. The law of 1900 gave the title of "desk sergeant" to the position formerly known as "doorman." The law of 1902 brought hostlers and prison van drivers within the enumeration of members of the force. The law of 1904 abolished the position of Assistant Superintendent, and increased the number of inspectors from two to three, providing for the designation of one inspector to be Chief of Detectives, and the designation of any inspector as Acting Superintendent during the absence or disability of the Superintendent.

§ 188. The city shall be divided into not less than two inspection districts, and not less than eleven nor more than fourteen police precincts, in the discretion of the Board. The boundaries of such precincts shall be fixed by the Board. The Common Council, upon the recommendation of the Board, shall have power to increase the number of precincts, and when so increased the Commissioners shall appoint one additional captain of police, three sergeants, and three desk sergeants for each new precinct so established.

Thus amended by L. 1893, c. 437, Sec. 3; L. 1896, c. 184, Sec. 2, and L. 1900, c. 656, Sec. 2.

§ 189. The Board shall designate the number of patrolmen to be assigned to each of said precincts, and shall divide said number of patrolmen into three platoons; no two of such platoons to be on duty at one and the same time, nor shall they wear uniforms when not on

actual patrol duty, except when in the discretion of the Board, public demands are such as require the aid and assistance of a second platoon, or the Board may, in its discretion on such occasions, order on duty all of said three platoons. It shall, annually, grant to each and every member of the department a vacation of not more than ten successive days with pay. It shall also grant to each and every member of the department one day's leave of absence in each month, with pay, beginning at six o'clock in the evening of the one day, and ending at six o'clock in the evening of the following day, when such leave of absence is granted. The said Board shall have the power and authority to suspend such leave of absence when public demands are such as require the assistance and aid of such member.

Thus amended by L. 1893, c. 437, Sec. 4, and L. 1896, c. 184, Sec. 3.

The law of 1894 introduced the three-platoon system in place of the former system of two platoons. The law of 1896 struck out a provision for the detail of one captain as drillmaster and one as inspector with additional pay for each, and provided instead for two inspectors under Section 187, above.

§ 190. The Board, with the concurrence of the Common Council, shall fix the salaries of all its officers and employes. All salaries in this department shall be paid semi-monthly, as follows: The Board shall cause to be made out and presented to the Common Council, semi-monthly, a full and true statement of the amount of salary due each of the members of the Board of Police, the police force, the clerks and employes of said department. No person shall hereafter be appointed a captain who has not been a member of the police force for at least two years. In the absence of the surgeon of police, and when no city physician can be obtained, any physician called by a member of the police force to render medical or surgical aid to a person unable to pay for such services, when the case is one which the surgeon of police would be required to attend, shall be entitled to reasonable compensation for such services, to be audited and

allowed by said Board, and paid in the same manner as the members of the police force are paid.

Thus amended by L. 1896, c. 45.

Before this amendment the salaries were paid monthly.

§ 191. The Board shall make all appointments of patrolmen from among those applicants only who shall have passed the examination prescribed by law; but no person shall be appointed to any place or office in the said police force, or continue to hold such place or office, who is not a citizen of the United States, or who has ever been convicted of crime punishable by confinement in a state prison, or who can not read and write understandingly, or who shall not have resided within the city during three years next preceding his appointment. Sergeants shall be appointed from among the members of the force. The superintendent shall detail for detective duty such patrolmen not exceeding twelve in number unless authorized by the Commissioners to detail a greater number as he shall, from time to time select. The patrolmen so detailed shall compose the detectives of the force, and during the time said patrolmen are detailed for detective duty they shall have the rank and pay of sergeants, and be known as detective sergeants, and each of them may receive for such detective service an additional salary not exceeding two hundred dollars per annum, to be fixed by the Board, with the consent of the Common Council.

Thus amended by L. 1896, c. 184, Sec. 4.

This amendment changed the residence requirement from one to three years, and added the provision giving additional rank and pay to patrolmen detailed for detective duty.

§ 192. All members of the police force, clerks, and employes, shall hold office during good behavior, and shall be liable to removal or reduction in rank only after written charges shall have been preferred against them, according to the rules and regulations of the Board, and the same shall have been publicly heard and examined

after notice to them thereof by said rules and regulations; such charges shall be made under oath. The Board may suspend from pay or duty, or both, any member of the force or other persons appointed by said Board, but not longer than thirty days from pay at one suspension. If such suspension shall be for more than ten days the Board shall make and file with the clerk of the Board decision in writing, setting forth the grounds for such suspension.

Thus amended by L. 1893, c. 345, Sec. 5, and L. 1894, c. 35.

§ 193. The Board may, upon any emergency or apprehension of a riot, pestilence or invasion, appoint as many special patrolmen, with or without pay, from the electors of the city, as it may deem advisable; and during any day of public election, and the day preceding and succeeding any such day of public election, it may appoint, to perform duty in the city, as many special patrolmen as it may deem necessary, with or without pay. Special patrolmen appointed with pay shall receive such sums for their services as may be fixed by the Board, not exceeding three dollars per day. The Board may, upon the application of any person or corporation, showing the necessity therefor, appoint special patrolmen to do special duty as required by the applicant for such appointment, but such special patrolmen shall not be entitled to any compensation from the city; nor shall any appointments of special patrolmen be made upon the application of any person or corporation until after the applicant shall have secured and indemnified the city and the Board against all claims and demands for such services, or growing out of any acts done or committed by such special patrolman, in such manner as shall be provided by the rules and regulations of the Board. The special patrolmen named in this section shall hold office during the pleasure of the Board, and during their term of service as such patrolmen shall possess all the powers and

privileges, and perform all the duties that may be from time to time prescribed by the rules and regulations of the Board, and during their respective terms of service the said special patrolmen shall be subject to such rules and regulations.

§ 194. The government and discipline of the Department of Police shall be such as the Board shall prescribe. The Board shall enact, and modify or repeal from time to time, rules and regulations for the management and administration of the Board, and for the government and discipline of the police force, and of the subordinates under its control, which rules and regulations shall prescribe the modes of appointments to and removals from office, and also define the duties of the members of the police force. The Board shall also enact rules and regulations to prevent undue detention of persons arrested by and in the custody of members of the force. The orders, rules and regulations authorized by this act, when duly made, enacted or adopted by the Board, shall have the same force and effect as if herein specially enacted; provided that the said rules and regulations shall not be in conflict with the laws of this state or of the United States. The Board shall also prescribe the uniform, badges, and emblems of office and equipments, to be worn by members of the force, and may provide that the same may be repaired or replaced by the department when they are injured or destroyed in the proper and necessary discharge of duty.

§ 195. Any member of the Board or the superintendent shall have power to issue criminal warrants in all cases after entertaining complaints, making the same returnable before the police justice or one of the justices of the peace of the city of Buffalo; and they may each commit for examination. The Board and the clerk of the Board shall each have power to issue subpœnas attested in the name of its president, to compel the attendance of witnesses, and the production of books

and papers upon any proceeding authorized by this act, and by said rules and regulations; and witnesses for whom subpœnas shall be issued shall not be entitled to any fees. Each Commissioner, the superintendent and the clerk of the Board is hereby authorized and empowered to administer affirmations and oaths to any person summoned and appearing in any matter or proceeding authorized as aforesaid, or to take any deposition necessary to be made under the rules and regulations of the Board, or in conducting the business of the department; and any willful and corrupt false swearing, by any witness or person, to any material fact in any necessary proceedings under the said rules and regulations, or under this act, shall be deemed perjury, and be punished in the manner now prescribed by law for that offense; and in case any person subpœnaed under this section shall fail to or refuse to obey such subpœna, or refuse to take, when required, the proper oath or affirmation, or to answer any proper question, or to produce such books and papers, the Board may apply to any court of record or judge or justice thereof for an order to compel attendance, and punish disobedience; and any process issued under the provisions of this section may be served or executed by any member of the force except the one issuing the same.

§ 196. The members of the police force shall possess, within the state of New York, all the common law and statutory powers of constables, except that of serving civil process; and any warrant for search or arrest issued by any magistrate of the state may be executed in any part thereof by any member of the force. The actual and necessary expenses incurred by any member of the force, when directed by the superintendent, board of police or district attorney of the county of Erie in serving or executing any process, or endeavoring to detect, discover, or arrest, or procure the extradition of, any perpetrator of crime against the laws of the state, including

the expense of legal counsel without the state, or discover or reclaim any stolen property, shall be a charge against the county of Erie; and the account of such expenses shall be made out in detail, and verified by the oath of the party to whom the same is due to the effect that the sums therein charged have been actually and necessarily paid out by him, and the amount thereof when audited and certified by the Board shall be presented to the Board of Supervisors of the county of Erie, to be audited and paid as the other county expenses are audited and paid.

§ 197. For the purpose of providing for the expenses mentioned in the preceding section, and for a secret service fund, the Common Council shall advance to the superintendent, out of the police fund, such sums as the Board shall from time to time recommend, not exceeding in the aggregate three thousand dollars in one year.

§ 198. The superintendent shall, at all times, cause the ordinances of the city to be enforced. The police force, at all times, within the city, shall preserve the public peace, prevent crime, detect and arrest offenders, suppress riots and insurrections, protect the rights of persons and of property, guard the public health, preserve order at every primary and public election; report all the dangerous places and obstructions in, and encroachment upon the streets to the Department of Public Works, remove such nuisances existing in public streets, roads, places and highways as the Board of Police or the Board of Health shall direct; suppress disorderly houses and houses of ill-fame, arrest all street beggars, and violators of law, assist the firemen and protect them in the discharge of their duties; assist, advise and protect strangers and travelers in the public streets, at steamboat and ship landings and railway stations; and enforce every law and ordinance for the suppression and punishment of crime.

§ 199. Each member of the police force shall have authority, immediately and without process, to arrest and take into custody any person who shall commit, or threaten, or attempt to commit, in his presence or within his view or knowledge, any breach of the peace, or any offense prohibited by the laws of this state, or by any ordinance of this city. He shall forthwith convey every person arrested by him before one of the justices of the peace, to be dealt with according to law. But if no justice of the peace is holding court, then the offender may be detained in the station-house until the public sitting of the police justice, before whom he may be tried or held to bail, and he shall then be conveyed without delay, before such police justice, to be dealt with according to law. While at any station-house such person shall be furnished with necessary and proper food; and the Board of Police shall include a sum to meet the expense thereof in its annual estimate, and such expense shall be a charge against the county of Erie.

§ 200. The Board shall issue to each member of the police force a proper warrant of appointment, signed by the Board, and countersigned by the clerk, which warrant shall contain the date of his appointment and his rank. Each patrolman detailed to duty as a detective shall have issued to him a written order of detail, signed by the superintendent, and countersigned by the clerk of the Board, and the revocation of such detail shall be issued in like manner. Each member of the police force shall, before entering upon the discharge of his duties, take and subscribe the usual constitutional oath of office before one of the Commissioners.

§ 201. The superintendent shall, before entering upon the duties of his office, execute to the city, and file in the office of the City Clerk a bond, the penal sum of which shall be fixed by the Board, with two or more sufficient sureties to be approved by the Mayor, conditioned for the faithful performance of his duties as such superin-

tendent, and for the accounting for and payment of all moneys that shall come into his hand, or under his control as such superintendent. The Board shall also require security to be given by the assistant superintendent, the clerk, and such members of the force as it may designate, for the faithful performance of their respective duties. *During the absence from the city or other inability of the superintendent, the assistant superintendent shall perform the duties of that office. The Board may prescribe and regulate the duties of the superintendent, and the assistant superintendent,* and other officers and members of the police force, conformatory to the provisions of this act.

*Superseded by L. 1904, c. 395, Sec. 1, abolishing the office of Assistant Superintendent. See Sections 187, 189, above.

§ 202. Every criminal process issuing out of any police court, or from any justice of a court not of record residing in the city, shall be served or executed by a member of the police force, and not otherwise;*but the Board shall detail as many patrolmen as may be necessary, and as the sheriff of Erie County shall require, to attend the terms of the Superior Court of Buffalo, and no constable or deputy sheriff shall be paid by the city or county for any services in said court. The necessary expenses incurred in the execution of any criminal process within the city and county shall be a charge against the county of Erie, and the amount thereof when certified by said Board, shall be audited and paid in the same manner as other county charges.

*Remainder of this section superseded by Constitution of the State, adopted in 1894, abolishing the Superior Court of Buffalo.

§ 203. The Board shall cause to be kept, general complaint books, in which shall be entered any complaint of a police nature, with the name and residence of the complainant. The superintendent shall cause to be kept books of registration of lost, missing, and stolen property, and books of record, wherein shall be entered the name, age and residence of every member of the police

force, and such other matter as may be prescribed by the Board; also such other records as the Board may deem necessary.

§ 204. The superintendent shall exercise general police supervision and inspection over all pawnbrokers, junkshop keepers, cartmen, hackmen, dealers in second-hand merchandise, intelligence-office keepers, and auctioneers of watches and jewelry, and all other licensed places in the city. The superintendent and captains within their precincts may, by authority in writing, empower any member of the police force who shall be in search of property feloniously obtained, or of suspected offenders, to examine the books and business premises of any pawnbroker, and the business premises of any junkshop keeper, dealer in second-hand merchandise, or intelligence-office keeper. Any member of the force so authorized, and having in his possession a pawnbroker's receipt or ticket, may examine the property purported to be pawned or deposited on the receipt or ticket; but no such property shall be taken from the possessor thereof without due process or authority of law.

§ 205. If any member of the police force, or if any two or more householders shall report in writing, over his or their signature to the superintendent that there are good grounds, and stating the same, for believing that any house, room or premises within the city is kept or used as a common gaming-house, common gaming-room or common gaming premises, for the playing for wagers or money on any game of chance, or is kept or used for any lewd or obscene public amusement, or the deposit or sale of lottery tickets or lottery policies, it shall be lawful for the superintendent to authorize any member or members of the police force to enter the same. The member so authorized shall forthwith arrest all persons there found offending against any law, and shall seize all implements of gaming, lottery tickets and lottery policies found therein, and convey any person

so arrested before the police justice, and bring the articles so seized to the office of the superintendent. It shall be the duty of the superintendent to cause the arrested person or persons to be rigorously prosecuted and the seized articles to be destroyed.

§ 206. The superintendent shall detail, on the day of any election in the city, and on the night and day following, if necessary, one or more patrolmen to each election poll, who may have access to the room or place in which the ballots are being received and counted. *The Board shall provide ballot and other boxes, for use at any election in the city, and provide for the custody of such boxes at all times, except during the taking, receiving, and counting the ballots. The city shall pay the expenses of procuring and taking care of such boxes as are used at elections.

*Remainder of this section superseded by L. 1896, c. 909, the Election Law.

§ 207. The superintendent shall take proper measures to have elections conducted in an orderly and fair manner, as provided by the election laws of the state.

§ 208. No fees or compensation whatever shall be charged or received by any member of the police force, except from the city or county for the arrest, confinement or discharge of any person, or for mileage and travel, or for serving any process, or for discharging any other duty required by this act, without the consent and approval of the Board, nor shall any such fee or compensation be charged or received by any officer or citizen for the arrest of any person charged with crime, or for the service of any process in any criminal case, without such consent and approval. The actual, necessary, and reasonable traveling expenses, which shall include board as well as transportation, incurred by any member of the police force, or by any citizen who may have been selected to execute any process issued within the city, in executing any such process or discharging any duty required of him

by the district attorney of the county of Erie, or by any police justice, judge of a court of record, or criminal court, held within the city, shall be audited and allowed by the Board of Police, and be paid by the superintendent, but such charges shall only be allowed upon the affidavit of the person making them that such expenditures have been actually and necessarily made, and shall not include any items for traveling expenses in cases wherein transportation has been furnished to the party gratuitously.

§ 209. The superintendent may, upon application in writing, setting forth under oath sufficient reasons, issue to any person a permit in writing to carry a pistol or pistols in the city. If such person shall be a private watchman, whose employers recommend the issuing of such permit, and whose duties may require the use of such weapon or weapons, such permit shall be issued without charge. For all such other permits issued, said superintendent shall charge and receive an annual fee of two dollars and fifty cents, in advance. Such permit shall not continue in force for more than one year, but may in the discretion of the superintendent be revoked, or renewed from time to time upon the payment in advance of the fee of two dollars and fifty cents for each year. The superintendent shall keep a register, upon which shall be entered the name, residence, and occupation of every person to whom he shall issue such permit, the date of issue or renewal, and the fee received for the same; and all the fees so received by him shall be deposited monthly in the city treasury to the credit, and for the use of the police pension fund hereinafter mentioned. No person, other than members of the police force, regularly elected constables, the sheriff of Erie County, and his duly appointed deputies, shall, in the city, carry concealed upon or about his person, any pistol or revolver, or other dangerous weapon or weapons, without having first obtained a permit, as hereinbefore provided; and such permit shall be produced and ex-

hibited by any person holding the same, upon the request of a member of the police force. A violation of any of the provisions of this section shall be a misdemeanor and punishable as such; and all fines imposed and collected for such violation shall be deposited to the credit of said pension fund by the clerk of the court imposing the same.

§ 210. The superintendent shall either personally or through the captains of the respective precincts, subject to such reasonable regulations as the Board may, from time to time, adopt, issue licenses to residents of the city who own or keep a dog or dogs to permit such dogs to run at large within the city limits. Each dog must at all times wear a suitable collar, to which shall be attached a tag or plate, to be furnished by the superintendent, bearing the number of the license issued for it, and all dogs so licensed shall be subject to such provisions of law or ordinances as may be enacted. Such licenses shall be for the term of one year, and shall only be granted upon the payment in advance of the sum of one dollar for each dog, and two dollars for each bitch so owned or kept. It shall be the duty of every person residing in the city, who owns or keeps such an animal, to apply to the captain of the precinct in which he resides, or to the superintendent, for a license for such animal so owned or kept by him; and if such person fail to apply for, and take out such license within twenty days after being notified so to do by any member of the police force, he shall for each offense be liable to a fine of five dollars, to be sued for and collected in the Municipal Court of Buffalo upon the complaint of the superintendent or any member of the police force, together with the cost of such proceeding. Any member of the police force is authorized to destroy by any means other than poisoning any such animal not duly licensed, and whose owner is not known or who fails to comply with this section. The superintendent shall keep a record of the licenses issued,

and shall deposit all fees received therefor with the treasurer of the city, who shall credit the same to the police pension fund. All fines collected under the provisions of this section shall be deposited to the credit of said fund. The Board shall have power to construct a suitable building for a dog pound on any lands acquired or held for police purposes, and not otherwise occupied, but the cost thereof shall be paid from the dog license fees; and the board may appoint one dog-catcher, and not exceeding six assistant dog-catchers, prescribe their duties, and fix their salaries, which shall be paid from the fees collected hereunder. The Board may, instead of appointing dog-catchers, contract with any person or corporation for the capture, keeping, and disposing of unlicensed dogs, and pay for such service and work from the license fees collected hereunder, such contract, however, not to exceed the term of one year.

Thus amended by L. 1892, c. 381, Sec. 1; L. 1894, c. 34, and L. 1895, c. 805, Sec. 17.

§ 211. All rewards or gifts that may be paid or given to any member of the police force for his service, except when the Board allow him to retain the same, and all moneys arising from the sale of unclaimed goods remaining for the space of one year in the hands of the clerk of the Board, and all fines imposed by the Board upon members of the police force, and all fees received and fines imposed under the two preceding sections, and all moneys, pay, compensation, or salary, or any part thereof, forfeited, deducted or withheld from any member or members of the police force, for or on account of absence for any cause, lost or sick time, sickness or disability, physical or mental, shall be paid monthly by the Board, and three per centum of all fees for licenses for the sale of liquors, wines, ale and beer, and five per centum of all fines and penalties imposed for any violation of the excise law, shall be paid weekly by the Board of Excise, all of which sum shall be deposited with the

Treasurer of the city, and be by him invested or deposited when, from time to time, directed by the Board, as a fund, to be called the "police pension fund." The Treasurer of the city shall be the treasurer of such fund. The members of the Board of Police and Treasurer of the city shall be the trustees of the police pension fund, and shall have the power to grant pensions as herein provided, to be paid from the police pension fund by the Treasurer, upon the order or warrant of the board of trustees. Immediately upon this act taking effect the present trustee of the police life insurance fund shall deliver the fund, including all investments belonging to the same, to the Treasurer of the city, for the uses and purposes of the police pension fund hereby created as hereinafter declared. The Treasurer shall make all necessary contracts, and take all necessary proceedings in relation to the fund, in his name, as treasurer of the police pension fund of the city. Pensions shall be granted by the board of trustees of the police pension fund in the following cases:

Thus amended by L. 1895, c. 137.

1. To the widow of any member of the police force, who shall have been killed while in the actual performance of police duty, or who shall have died from the effects of an injury received, while in the actual discharge of such duty, the sum of three hundred dollars per year so long as she remains unmarried. And if there be no widow of such deceased member, then such annual pension shall be paid to his child or children him surviving, if any, so long only as such child or children, or the youngest of such children shall continue under the age of eighteen years. In the event of the death of the widow of such deceased member, who at the time of her death is drawing a pension as provided in this act, then such annual pension shall be paid to the child or children of such deceased member of the police department, if any, so long only as such child or children, or the youngest of such children

shall continue under the age of eighteen years. No pension shall be paid under this title to any child over eighteen years of age. And if there be no such widow, child or children of such deceased member, then such pension shall be paid to his parent or parents, provided such parent or parents were dependent upon such deceased member for support, and such time only as such pension shall be necessary for the support of the parent or parents.

Thus amended by L. 1904, c. 395, Sec. 2.

2. To any member of the force, who, while in the actual performance of police duty, and by reason of the performance of such duty, and without fault or misconduct on his part, shall be injured or become permanently disabled, physically or mentally, so as to unfit him for the performance of full police duty, the sum of not more than one-half nor less than one-fourth of his rate of compensation per year. This section shall apply to the police matrons who become totally disabled, physically or mentally while in the service of the department.

Thus amended by L. 1901, c. 564.

This law added the last sentence.

3. To any member of the force who, by long service and exposure in the actual service of the department, shall have contracted any disease or disability, which incapacitates him permanently from performing full police duty, without fault or misconduct on his part, upon his retiring from the service or being dismissed on account of such disease or disability, the sum of three hundred dollars per year, if he has served as such member for ten years; and for each year he shall have served as such member in excess of ten years the amount of pension to which he is entitled under the provisions of this act shall be increased each year by the sum of twenty dollars until the total amount shall reach the sum of six hundred dollars. Pensions provided for in the second and third subdivisions above shall not be granted except

upon the sworn certificate of the surgeon of the police, and upon the unanimous resolution to that effect by the members of the board of trustees of the police pension fund. Upon the resignation of any member of the police force, who shall have served as such for a period of thirty-five years or upward, where at the time of such resignation such member is not incapacitated from full police duty by reason of disease or disability, the board of trustees of the police pension fund may, in its discretion, grant to such member a pension not exceeding one-half of the annual salary received by such member at the time of his resignation from the police force, and a pension may be granted under this provision without the sworn certificate of the surgeon of police, as hereinbefore provided. The police matrons shall be granted the privilege of this fund, so far as it relates to their children. Nothing herein contained shall affect the claim of any annuitant to whom any annuity has heretofore been allowed from the police life insurance fund, but such annuity shall be paid by the Treasurer out of the police pension fund, so long as the Board shall so direct, the same as if the claim thereto had arisen subsequent to the time when this act shall take effect. And the board of trustees may, in their discretion, and by a majority vote, and in accordance with the provisions of this act, grant pensions to widows of deceased members, and to annuitants under the police life insurance fund, where death or retirement has occurred prior to the passage of this act, and has been caused by disability acquired in the service of the department. In computing the time of service of any member of the police force for the purpose of this section, the term of service of such member on any regular police or fire department force of the city, or upon the park police force of the city as formerly constituted, shall be computed and taken the same as service on the police force of the city, and it shall not be deemed necessary for the purposes of this section that such service shall have been continuous. In computing the time of service of

hostlers or prison van drivers for the purpose of this section, the term of service which they shall have served as employes of the Police Department previously to being made members of the police force, shall be computed and allowed the same as service rendered on the police force of the city. All officers who are retired under the provisions of this act, and who are drawing pay from the said pension fund may, when able to act, perform duty in case of emergency, and may be accepted to perform temporary duty by the Commissioners when satisfied that they are able to serve. While so serving on temporary duty they shall be entitled to receive compensation not exceeding three dollars per day, in the discretion of, and to be fixed by the Board, for every day or part of a day that they shall so serve, in addition to their pension, which shall not be in any manner affected by such temporary service. All pensions provided for herein shall be payable monthly and shall be exempt from attachment and execution.

Thus amended by L. 1899, c. 702; L. 1902, c. 551, Sec. 2; L. 1904, c. 395, Sec. 3, and L. 1905, c. 181.

§ 212. (1) All money or property alleged or supposed to have been feloniously obtained, or which shall be lost or abandoned, and thereafter taken into the custody of any member of the police force, or of any criminal court in the city, or which shall come into the custody of the police justice or a justice of the peace within said city, shall be by such member or justice, or by order of said court, given into the custody of and kept by the clerk of the Board, and shall be particularly registered by the clerk in the book kept for that purpose, which shall also contain a record of the names of the persons from whom such money or property was taken, and of the claimants thereof, the time of its seizure, and the final disposition thereof.

(2.) Whenever property or money shall be delivered to the clerk of the Board as aforesaid, and the magistrate or court, before the case shall be heard, shall be satisfied

from evidence that the person arrested is innocent of the offense alleged, and that the property rightfully belongs to him, such magistrate or court shall thereupon, in writing, order such property or money to be returned to such person, and the clerk of the Board, if he have it, shall deliver such property or money to the accused person himself, and not to his attorney, agent or clerk.

(3.) If any claim to the ownership of such property or money shall be made on oath, before the magistrate or court, by, or on behalf of any other person than the one arrested, and the accused person shall be held for trial or examination, such property or money shall remain in the custody of the clerk of the Board until the discharge or the conviction of the person accused. If the person accused shall be held for trial or examination, and shall be afterwards tried upon the charge of having feloniously taken or obtained such property from the person by which, or on whose behalf the claim shall be made, and shall be convicted on such charge, then the board shall direct such property to be delivered to the claimant, or his duly authorized agent, upon the certificate of the district attorney of Erie County, or his deputy, or the judge or magistrate who presided at the trial at which such conviction was had. If the accused person shall be tried, and shall be acquitted and discharged, then the Board may, upon the certificate of either of the above-named officers, direct the property to be re-delivered to the accused person, on his making oath before any member of the Board or before the clerk that he is entitled to its possession. If the accused person shall not demand the property and make the oath, or if the Board shall be satisfied that he is not entitled to the possession of the property, the clerk shall advertise, and dispose of the property in the manner hereinafter provided. The provisions of this subdivision shall not apply to cases provided for in subdivision two of this section.

(4.) All property or money taken on suspicion of having been feloniously obtained, or of being the proceeds

of crime, and for which there is no other claimant than the person from whom the same was taken, and all property and money, taken from pawnbrokers as the proceeds of crime, shall, as soon as practicable, be transmitted to the clerk of the Board, to be by him duly registered. The clerk shall give notice that he has received such property by publishing such notice in the official paper once a week for three weeks. At the expiration of the three weeks, the Board shall determine what person is lawfully entitled to the possession of the property, and shall direct the return of the same to him. It shall be delivered by the clerk as directed by the Board. If the person from whom such property shall be taken shall be a non-resident of the city, and the Board shall determine, upon examination, that the circumstances are not such as to justify the detention of the property, then it may direct it to be re-delivered to such person before the expiration of the three weeks.

(5.) All lost property coming into the possession of any member of the police force, and all property taken by any member of the force from any person supposed to be insane, intoxicated or otherwise incapable of taking care of himself or herself, shall, as soon as practicable, be transmitted to the clerk of the Board, to be duly registered, and shall be delivered to the owner or person entitled to its possession, upon proof to the satisfaction of the Board, or the clerk thereof, that such person is the owner or entitled to the possession of the property.

(6.) When money or property shall remain in the possession of the clerk for six months unclaimed, or where the Board shall not have directed it to be delivered to any person, the clerk shall publish a notice in the official paper once a week for three weeks, that he holds the same. If no person lawfully claims the property the clerk shall sell it at public auction, giving notice of the time and place of such sale, by publishing the sale daily for one week previous thereto in the official paper of the

city. The proceeds of such sale, and any unclaimed money shall be paid by the clerk of the Board to the Treasurer of the city, and become a part of the police pension fund.

(7.) Any property or money in the custody of the clerk desired as evidence in any criminal proceeding, shall be temporarily delivered for that purpose to any officer who shall present an order therefor from a court, magistrate or district attorney.

(8.) When conflicting claims shall be made to any property in the custody of the clerk, under the provisions of this section, the said Board or the said clerk may require from any claimant, as a condition of the delivery of such property to him, that such claimant execute and deliver to the said clerk to be filed by him in his office, a bond, with sufficient sureties, to be approved by said Board, conditioned to indemnify and save harmless the said Board and each and every member thereof, and the said clerk from and against all suits, judgments, demands, causes of action, cost and damages of every nature and description by reason of, or in any manner growing out of the delivery of such property to such claimants, and from and against the payment of any and all sums of money which the Commissioners or either of them, or the said clerk, may be compelled to pay by reason of such delivery; such bonds shall be in such form as the Board shall prescribe, and shall be executed to the Board of Police as the obligee therein; and for any breach of the condition thereof an action may be maintained thereon in the name of the said Board as plaintiff, and any recovery thereon shall be in the name of said Board, but for the benefit of the Commissioners or commission, or clerk, as to whom the said breach shall have occurred.

§ 213. All accounts against this department for services, labor, or material and merchandise, except accounts for executing or endeavoring to execute criminal

process, or for arresting or extraditing, or endeavoring to arrest or extradite criminals, and those payable out of the secret service fund, shall be made out in detail and certified by the Board, before they are presented to the Common Council for audit.

§ 214. The Board shall, in each year, make an estimate of the sums of money necessary for the administration of the affairs of the Department of Police, and for defraying the expenses of said department for the ensuing official year, including all sums necessary for salaries, for expenses in the execution of criminal process, for office accommodations and supplies, for warming, lighting, furnishing, and supplying police station-houses, patrol barns, and all buildings in use or to be in use by the said departments; for necessary legal expenses, and all expenses which may necessarily be incurred by reason of any civil or criminal action or proceeding against the Commissioners of Police, or either of them, or against any member of the police force for acts done in the discharge of his or their duty; and also for any deficiency which, in the judgment of said Board, may arise in the police pension fund in meeting the charges payable out of said fund as hereinbefore provided. The said estimate shall be signed by the Board or a majority thereof, and shall be by the said Board, on or before the first day of February in each year, transmitted to the Comptroller. Any sum which may be allowed and raised upon an estimated deficiency in the police pension fund shall be held by the City Treasurer for the uses and purposes of the police pension fund.

§ 215. The superintendent shall have the control of the force under him, which must look to him for all orders and directions. All reports must be made to him by the force through the proper channels, and he will be held responsible for the discipline and effectiveness of the force, and the enforcement of all the orders, rules and regulations of the Board. He shall make to the Board

quarterly reports in writing of the state of the police force, with such statistics and suggestions as he may deem advisable to submit for the improvement of the police force, and the discipline thereof. The Board shall, on or before the first day of February in each year, make a report to the Common Council upon the condition of the police force, together with such recommendations as the Board may deem necessary.

§ 216. The superintendent shall, when directed by the Mayor, detail a sufficient number of the police to render any assistance required by the head of any department in the discharge of his duties. *The captains of police shall in their respective precincts examine the premises, and inquire into the character of the persons applying to the Board of Excise for license under the provisions of this title whenever said application shall be referred to them by the Board of Excise, and shall report in writing to said Board the fitness of such persons to receive licenses, and the propriety of granting the same.

*Remainder of this section superseded by L. 1896, c. 112, the Liquor Tax Law.

§ 217. Any willful resistance to any member of the police force, while in the discharge of his duties, and any willful or malicious interference with, or obstruction, or defacement of any police telegraph line or apparatus, or any street box used in connection therewith, by any person shall be a misdemeanor. It shall also be a misdemeanor for any person not a member of the police force falsely to represent himself to be such a member.

§ 218. The Board shall furnish annually to the Board of Supervisors of Erie County an accurate statement of all moneys paid out by the superintendent during the preceding year, under the requirements of this title. It shall be the duty of the County Treasurer to pay over the money raised under the provisions of this title to the Treasurer of the city. The Supervisors of the county

are hereby authorized, empowered, and required from time to time, to levy and raise by taxation, all sums of money required to carry into effect the fiscal provisions of this title affecting the county, and necessary for the payment of all sums which by the provisions of this title shall become a charge against the county.

Chapter III.

SEALER OF WEIGHTS AND MEASURES.

§ 219. The Board of Police shall appoint a Sealer of Weights and Measures, and such assistants as he may require, and provide suitable office accommodations for him at the police headquarters. He shall hold his office for one year, and receive such compensation as may be fixed by ordinance.

§ 220. The Sealer of Weights and Measures shall test all scales, weights and measures in the city as directed by ordinance, and shall investigate all complaints of violation of the ordinances of the city relating to weights and measures, and for that purpose, or whenever directed by the Board, shall report to the Corporation Counsel all violations of the ordinances of the city relating to weights and measures, and the Corporation Counsel shall thereupon bring an action to enforce the fine, penalty or forfeiture prescribed for such violation.

§ 221. The Sealer of Weights and Measures shall report in writing his official acts to the Board at least once in each week, and such Sealer of Weights and Measures, and assistants shall be appointed under the civil service rules.

Chapter IV.

DEPARTMENT OF EXCISE.

Sections 222–230 omitted here because they have been superseded by L. 1896, c. 112, known as the Liquor Tax Law.

TITLE VIII.

DEPARTMENT OF HEALTH.

§ 231. There shall be a Department of Health, which shall be under the control and management of a Health Commissioner, who shall be appointed by the Mayor, and act under the advice and supervision of the Board of Health. The Board of Health shall consist of the Mayor, the Commissioner of Public Works, and said Health Commissioner. The Health Commissioner shall hold his office for the term of five years from the time of his appointment, and until his successor is appointed, and he shall devote his entire time to the duties of his office. He shall be a reputable and licensed physician of not less than thirty years of age, and with an actual experience as a practicing physician of not less than five years.

Thus amended by L. 1901, c. 228, Sec. 3.

§ 232. The Commissioner shall have supervision over the care, removal and burial or incineration of the dead, the registration of births, marriages and deaths, the registration of vital statistics in the city, and with the approval of the Board he shall make such rules and regulations as he may deem necessary for the proper carrying out and enforcement of all laws and ordinances that may be prescribed for the government of said department, for the protection of the public health, and for the proper care and registration of such statistics.

§ 233. The Commissioner is hereby authorized and directed to prepare such ordinances as he shall deem to be required for the protection of the public health, and for securing the proper registration of births, marriages, deaths, and such other statistical information as may be necessary for the efficient working of the department, with penalties for their violation, which ordinances, when approved by the Board, shall be by him submitted to the Common Council, and when approved by said Common

Council, shall have the same force and effect as other ordinances of the city. Whenever the Board of Health shall declare that rabies is prevalent in the city, or in the vicinity thereof, the Commissioner shall prepare ordinances prescribing the conditions under which dogs may be kept, brought or allowed to be within the city, and providing for the destruction of dogs suffering from rabies, and to prevent the spread of the disease, with penalties for their violation, which ordinances, when approved by the Board, shall be by the Commissioner submitted to the Common Council, and when approved by the said Common Council, shall have the same force and effect as other ordinances of the city, anything in this act contained to the contrary notwithstanding; and in addition to the other penalties prescribed for a violation thereof, such ordinances may further provide that any dog kept, brought or being within the city contrary to the provisions thereof shall be a public nuisance and a menace to the public health, and may be destroyed or otherwise disposed of as prescribed in such ordinance. No ordinance so prepared and approved as in this section provided shall be repealed or amended without the approval of the Health Commissioner and Board of Health, and the Common Council shall adopt no ordinance relating to or governing the matters and things contained in this title, unless the same shall be recommended by the Health Commissioner and Board of Health.

Thus amended by L. 1900, c. 46.

This amendment added the second sentence, relating to rabies.

§ 234. The Commissioner shall divide the city into eight health districts, and the Board of Health shall appoint a physician in good standing in the medical profession for each of said districts. The Board shall also, in addition, appoint from the homeopathic school of medicine, two physicians for such districts as it may designate. The Board may, at any time, remove any of said persons,

and appoint a successor. The said physicians shall be known as city physicians of their respective districts. It shall be the duty of said city physicians to render medical service to indigent sick persons, as prescribed in title thirteen of this act, and to report to the Department of Health any nuisances or unsanitary places or violations of health ordinances or regulations that may come to their attention in connection with the performance of their duties. In case of epidemics or impending pestilence the city physicians shall perform such professional duties as may be required of them by the Health Commissioner.

§ 235. The Commissioner shall have power to appoint an assistant health officer, a clerk, a registrar of vital statistics, an inspector of plumbing and drainage, who must be a practical plumber, a city chemist, a cattle inspector, a keeper of the quarantine hospital, a city scavenger, and two inspectors of food supples and drugs, and such other officers and employes as may be authorized by the Common Council. The Board, with the concurrence of the Common Council, shall fix the salaries of all the city physicians and other employes, and the duration of the terms of office of all such employes shall be in the discretion of the Commissioner of Health; provided, however, that the whole expense of administering said department shall not exceed the sum appropriated therefor by the Common Council, except as provided in section seventy-three, and all expenditures so incurred, for whatever purpose, shall be made and met in such manner as is provided for in other departments of the city government, and in the following section. It shall be the duty of the superintendent of police to execute the orders of the Health Commissioner when so requested by him.

§ 236. In the presence of great and imminent peril to the public health of the city, by reason of impending pestilence, it shall be the duty of the Health Commis-

sioner to take such measures and do, order, and cause to be done such acts, and make such expenditures (beyond those duly estimated for as herein provided) for the preservation of the public health from such impending pestilence as he may, in good faith, deem the public safety and health to demand, and the Board of Health shall, in writing, approve; and such peril shall not be deemed to exist, except when, and for such period as the Board of Health shall by proclamation declare.

§ 237. The Commissioner shall have full power to enforce and carry out all ordinances, rules and regulations for the preservation of the public health, and for the registration of vital statistics as have been or may be hereafter enacted by the Common Council; and in case any business or practice is dangerous or detrimental to the public health, to prohibit the same, and to declare unwholesome grounds, yards, cellars, buildings, and other places, stagnant or unwholesome waters, filth, and unwholesome matter injurious to health, to be nuisances, and upon so declaring, the Commissioner shall have power to abate the same in such manner as he may deem expedient, and the expense may be assessed upon the lands upon or in front of which said nuisances were, or upon the parcels of land benefited by the abatement of the nuisance, as the Common Council shall direct; but no established business or the rights to property of any person shall be interfered with or prohibited until the offender or offenders therewith charged shall have been duly summoned by notice of not less than one or more than five days, to appear before said Commissioner to show cause why such declaration or order of prohibition shall not be enforced against the party or parties or premises charged, nor until the said party or parties persons interested in the premises shall have an opportunity to be heard, in person or by counsel.

§ 238. Any person or persons desiring to erect a building for use as a dwelling for more than three fami-

lies, or for use as a livery stable or public barn in which live stock of any kind is to ke kept, a slaughter-house or a rendering establishment, or to alter or convert an existing building to such uses, shall submit the plans for such building or alterations to the Commissioner, who shall have power, if not prohibited by ordinance or law, to permit or prohibit the erection or alteration or conversion of any building to be devoted to such uses under such rules and regulations as he may adopt; and the Commissioner shall have the power to cause the removal of persons from any building which, in his judgment, is so crowded by persons dwelling therein as to endanger the public health.

§ 239. (1.) Every master and journeyman plumber, or a person who has been engaged in the business of plumbing for five years next prior to the passage of this act, carrying on his trade in the city, shall under such rules and regulations as the Board of Health of said city may prescribe, register his name and address with the clerk of said Board of Health, and after said date it shall not be lawful for any person to carry on the trade of plumbing in said city, unless his name is registered as above provided.

(2.) A list of the registered plumbers in the city of Buffalo shall be published in the newspaper designated by the Common Council of said city to publish the official proceedings of said city at least once in each year.

(3.) The drainage and plumbing constructed or placed in and about all buildings, both public and private, in the city of Buffalo, shall be constructed, executed, and placed in accordance with plans previously approved in writing by the Board of Health or the Health Commissioner. Suitable drawings and descriptions of said drainage and plumbing shall in each case be submitted to said Board of Health or Commissioner, and shall be placed on file in the office of the Board. Said Board of Health is hereby authorized to receive and place on file drawings

and descriptions of the plumbing and drainage of buildings erected in said city prior to the passage of this act.

§ 240. The Board of Health of the city of Buffalo shall have power to make such rules and regulations for the registration of plumbers, and for drainage in said city as such Board shall deem proper, and to make all such rules and regulations as shall by it be deemed necessary to carry into effect the provisions of this title.

§ 241. The Commissioner shall have power to take measures to prevent the entrance of pestilential or infectious diseases into the city; to stop, detain, and examine for that purpose every person coming from any place infected, or believed to be infected with such disease; to cause any person infected or believed to be infected with such disease to be removed to such quarantine hospital as the city may maintain. And for such purpose the city shall maintain a quarantine hospital which shall be under the control and direction of, and whose necessary attendants shall be appointed by, the Commissioner. The Commissioner shall have power to cleanse infected buildings, vessels, vehicles, and places of all kinds, and to destroy furniture, clothing, and other property so infected as to be dangerous to public health.

§ 242. Any court of record in the city, or any judge or justice thereof, shall have power, at any time after the service of notice of any violation of any provision of this title, and upon the affidavit of the Commissioner, to restrain in an action by the Commissioner, in his name of office, by injunction order, the further progress of any violations of the provisions of this title or of any work upon or about the building or premises upon which the said violation exists, and no undertaking shall be required as a condition to the granting or issuing of any injunction. Upon obtaining such injunction, the Health Commissioner shall record in the office of the clerk of the county of Erie an instrument under his hand, setting forth a description of the premises against which such injunction

is obtained, and the nature of the complaint against the same. The clerk of the county is hereby authorized and required to provide a suitable book in which to record such instruments, and the necessary and proper indexes thereto. Upon such injunction being dissolved, or upon certificate of the Health Commissioner that the cause of complaint has been removed, the said clerk of the county is authorized and required to discharge of record the instrument so recorded relating to the property affected by such injunction.

§ 243. It shall be the duty of the Commissioner to visit all hospitals in which patients supported by the city are received, at least once in each month, and to inquire into the condition of any such patients whom he may find therein, and to order the discharge of any such patients whom he shall deem to be sufficiently recovered, and he shall communicate such order to the department of poor; and after the issuing of any such order the patient therein referred to shall cease to be a city charge.

§ 244. Any persons violating any of the provisions of this title or any of the ordinances adopted under the powers granted by it, shall be deemed guilty of a misdemeanor.

TITLE IX.

DEPARTMENT OF FIRE.

Chapter I.

§ 245. There shall be a Department of Fire, of which the Board of Fire Commissioners shall be the head. The Board shall consist of three members, who shall be appointed by the Mayor, who shall hold their offices for the term of six years, and until their successors are appointed. No more than two Commissioners shall be

adherents of the same political party. Vacancies in the Board shall be filled by the Mayor by appointment for the unexpired terms. The Mayor may appoint Commissioners to fill temporarily the places of Commissioners unable to perform their duties by reason of mental or physical disability, or absence from the city; such temporary Commissioners shall receive the compensation of the Commissioners whose places they occupy for the time they serve.

§ 246. The Commissioners in office at the time this act takes effect shall constitute the first Board, and shall serve out the terms for which they were respectively appointed. Two members of such Board shall be a quorum.

§ 247. No member of the Board shall be interested in the purchase or sale of lands for the use of the department, in the construction and repair of engine-houses, or in the manufacture, purchase or sale of anything used in the department. Any member who shall be so interested, or who shall be guilty of misconduct in office, or who shall neglect his official duties, shall be removed by the Mayor after due hearing on charges.

§ 248. The Board shall hold at least four regular meetings each month, and shall make rules to govern its proceedings. The Commissioners shall elect one of their number to be the president of the Board.

§ 249. The Board shall appoint, and may at pleasure remove a secretary. He shall keep an accurate record of all proceedings of the Board, and shall perform such other duties as it may prescribe. Records kept by the secretary, when duly certified by him, shall be received as evidence in all legal proceedings.

§ 250. The Board shall also appoint, and may after a public hearing on written charges remove a chief engineer, an assistant chief engineer, a surgeon of the department, a superintendent of horses, a chief operator,

and such district engineers, foremen, and other subordinates as it may deem necessary for the efficient working of the department, and it shall, subject to the approval of the Common Council, fix the salaries of all its employees. The officers and other members of the Fire Department in office when this title takes effect shall continue in office, and hold their respective positions, or the positions herein designated which correspond to those which they shall then hold, unless reduced in rank or removed pursuant to the provisions of this act.

§ 251. The Board shall annually grant to the chief engineer, assistant chief engineer, and district engineer, a vacation of not more than fifteen consecutive days with pay, and to the other members of the department, an annual vacation of not more than ten consecutive days with pay. They shall also grant to each and every member of the department two days' leave of absence in each month with pay, beginning at 8 o'clock in the forenoon of one day, and ending at 8 o'clock in the forenoon of the following day. Such leave of absence may be suspended when public interests require it. They shall also grant to each member of the department three hours each day for meal-time, and grant to any member of the department who is disabled by sickness, half-pay from the time that said sickness shall exist, provided it be for no longer time than six months, and the said Board shall grant to any member of the department who shall have become disabled by accident while in the performance of duty, full pay until he shall become able to resume his duties, provided it be for no greater time than one year. But in case of the sickness or other disability of any member, the said Board may from time to time require the certificate or affidavit of the attending physician that such member is not able to perform his duties as a member of the Fire Department. The Board of Fire Commissioners may, with the approval of the Mayor and the Common Council, divide the captains or foremen of com-

panies, lieutenants or assistant foremen, engineers, and firemen of all grades into two platoons, one to perform day service, and the other to perform night service. In case of riot or serious conflagration the Board, or the chief engineer shall have power in its discretion to assign all members of the department to continuous duty. Neither of said platoons shall be required to perform continuous day service or night service, as above prescribed, for a longer consecutive period than one week, except so far as may be necessary to equalize the hours of duty and service between the two platoons, and also except in the case of riot or serious conflagration, as above provided. The salaries now paid to captains or foremen, lieutenants or assistant foremen, engineers, and firemen of all grades, shall not be reduced.

Thus amended by L. 1903, c. 243.

This amendment added the last four sentences, giving authority for division of the firemen into two platoons.

§ 252. The Board shall control and manage the department. It shall have charge of the property used by the department, including the fire-alarm telegraph. It shall purchase such horses, supplies, engines, hose, and other apparatus as may be required, and shall make repairs necessary to any of the property under its control, except repairs to buildings. It shall recommend to the Common Council the erection, alteration, and repair of engine-houses and buildings for the department when necessary, and the plans therefor must be approved by it. It shall employ subordinates, whose duty it shall be to make repairs to engines, hose, wagons, ladders, and other apparatus of the department, but such subordinates shall not be taken from the house in which they are employed to do such work at any other places in the department. It shall provide for the proper drilling and exercise of the officers, men and horses of the department, when not on active duty.

§ 253. The Board shall not order the expenditure of any money or make any contract except by the majority

vote of all its members, which votes shall be taken by yeas and nays, and entered upon the minutes. No expenditure or contract, exceeding or involving the sum of five hundred dollars, shall be made without the consent of the Common Council. Before the Board shall enter into a contract for the performance of any work, or the purchase of any apparatus, material or supplies, the expense of which shall exceed the sum of five hundred dollars, it shall cause a notice to be published in three successive numbers of the official paper, Sundays and legal holidays excepted, and in case of the purchase of apparatus for the department, due and ample notice shall be mailed to such competing parties as the Board shall deem advisable, inviting sealed proposals for the same according to the plans and specifications to be filed in its office, and the contract shall be let to the lowest responsible bidder, who shall furnish security for its performance satisfactory to the Board.

§ 254. The Board shall make and enforce rules and regulations for the government of the officers and employees of the department in the discharge of their duties. They shall also adopt rules and regulations to prevent interference with the department and its apparatus, and such last-mentioned rules and regulations shall have the force and effect of ordinances when approved by the Common Council.

§ 255. The Board shall investigate the cause and origin of all fires in the city, and when deemed advisable testimony may be taken before it, which shall be reduced to writing, and subscribed by the witnesses, and the Board shall thereupon report it to the Board of Police, with its opinion as to the cause and origin of the fire. The Board shall have power to issue subpœnas for witnesses to appear before it and testify upon any such investigation, and to produce before it books and papers, and each member of the Board may administer an oath to such witnesses and examine them, and the books and

papers produced by them. If any such witness shall refuse to appear or to produce such books and papers, or appearing, shall refuse to testify, the Board may report such refusal to any court of record or a judge thereof, and such court or judge may make an order for the future appearance of such person or the production before the Board of such books and papers, and punish any disobedience of such order as a contempt of court.

§ 256. The Board shall make an annual report to the Common Council stating the expenditures of the year, the condition of the property under its control, the number and origin of the fires occurring during the year, and any other pertinent matters.

§ 257. The chief engineer shall be the executive officer of the Board, and shall perform such duties as may be imposed upon him by the Board. In case of his absence or inability to act, the assistant chief engineer shall act in his place. The chief engineer, under the direction of the Board, shall, by virtue of the office, be superintendent of the fire-alarm telegraph, and the Board may appoint such number of operators and other employes as may be necessary for the management of said telegraph. No person connected with the department, except the Commissioners, shall be engaged in any business or occupation other than that of the department.

§ 258. Each member of the Board, the chief engineer, the assistant chief engineer, and each district engineer, shall have power, at all reasonable times, to enter and examine any premises, and they shall report to the Board all violations of any ordinance for the prevention of fires.

§ 259. The Board shall report to the Corporation Counsel any violation of the fire ordinances, and he shall thereupon bring an action to enforce the penalty or forfeiture prescribed for such violation. The Corporation Counsel shall not settle or discontinue any such action without the consent of the Board.

§ 260. Each member of the Board, the chief engineer, the assistant chief engineer, and each district engineer, may arrest or orally direct any policeman or person to arrest any one who disobeys his lawful order, or who is intoxicated or disorderly at a fire, and cause the person so arrested to be confined temporarily or until the fire shall be extinguished.

§ 261. The engineer, the assistant chief engineer, or district engineer in command, with the concurrence of the Mayor, or, if the Mayor is not present, with the concurrence of one of the fire Commissioners, may direct any burning building, or any other building which they may deem hazardous and likely to take fire and endanger the safety of other buildings, to be torn down, blown up or destroyed.

§ 262. Any person owning, or having any interest in, any building injured or destroyed by any act authorized by the preceding section, may, within three months thereafter, file with the City Clerk a verified statement of the facts of such injury or destruction, and the damages claimed by him. If the claim is made within such time, and the city does not within two months compromise or pay it, the claimant may within one year after the building was injured or destroyed, present a petition to the Supreme Court or the Superior Court of Buffalo, for the appointment of three Commissioners to ascertain the just compensation to be made to him. The petition shall be verified, and a copy of it, with notice of the time and place, when and where it will be presented, shall be served on the Corporation Counsel at least fourteen days before the day when it shall be so presented. The court shall hear the proofs and allegations of the parties, and shall, in a proper case, appoint three persons to ascertain the just compensation to be made to the claimant, and fix the time and place of their first meeting. The Commissioners shall be paid five dollars a day for their services. Such payment shall be made by the city.

§ 263. The Commissioners so appointed shall take and subscribe an oath that they will faithfully discharge their duties. Any of them may issue subpœnas and administer oaths to witnesses. A majority of them may adjourn the proceedings before them, from time to time, in their discretion. They shall view the premises, hear the proofs and allegations of the parties, and reduce the testimony taken by them, if any, to writing; and after the testimony is closed they, or a majority of them, all being present, shall, without unnecessary delay, ascertain and determine the amount which ought justly to be paid by the city to the claimant or claimants. In determining such amount, the Commissioners shall decide whether the building so damaged or destroyed would have been destroyed by the fire, and if they decide that it would have been so destroyed, they shall not award to the claimant or claimants an amount exceeding the amount of valid insurance which such claimant or claimants had then existing in their favor upon such building, and which they may have lost by its destruction. And if they shall determine that the said building would not have been destroyed by the fire, they shall award the full damages to the property, as determined by them.

§ 264. Every fireman, and every person who shall have served as a volunteer fireman without pay, in the city for the term of five years, shall be exempt from serving as a juror, and from all militia duty, except in cases of insurrection or invasion. A certificate from the Mayor under the city seal, shall be evidence of such exemption. The Common Council may grant certificates of exemption to members of the late volunteer fire department of the city, who were duly enrolled in any one of the companies of said department, in like manner, and with the same effect as though they had served the full term of five years, without pay, as volunteer firemen.

§ 265. The money which is required by chapter one hundred and seventy-eight of the laws of eighteen hund-

dred and forty-nine, and the acts amendatory thereof, and supplementary thereto, to be paid to the Treasurer the city, shall be paid to the treasurer of the Firemen's Benevolent Association of Buffalo, and the bond required by such chapter shall be executed and delivered to him.

Chapter II.

FIREMEN'S RELIEF AND PENSION FUND.

§ 266. There shall be established in the city of Buffalo a Firemen's Relief and Pension Fund, which shall consist of:

1. All securities, property, and moneys, which upon the passage of this act, are in the possession, and under the control of the Fire Commissioners of said city, belonging to the Firemen's Relief Fund.

2. All fines, penalties, and forfeitures that from time to time may be imposed upon any officer or member of the Fire Department of said city by way of discipline collectible from pay or salary.

3. All rewards, fees, gifts or emoluments that may be paid or given for extraordinary services, rendered by any officer or member of said Fire Department, except when allowed to be retained by such officer or member by the Board of Fire Commissioners, or given to endow a medal or other permanent competitive reward.

4. All moneys realized, derived or received from the sale of condemned, unfit, and unserviceable property belonging to or in the possession or under the control of said Fire Commissioners, where the same does not exceed the sum of two hundred and fifty dollars in value for any one article.

5. All fees and moneys realized, received, or derived from the granting or issuing of licenses for the keeping or sale of fireworks, kerosene, coal oil, naphtha, gasoline, gun-powder, and other explosive materials.

6. All moneys realized, derived, or received from fines or penalties under the provisions of this act or under the ordinances of the city of Buffalo, or under the rules and regulations of the Board of Fire Commissioners, for the prevention and extinguishment of fires, and for the conveying and removal of gun-powder, nitroglycerine, and other explosives, in and through the city or any part thereof, and the keeping and sale of fireworks, kerosene, coal oil, naphtha, gasoline, gun-powder, and other explosive materials.

7. Three per centum of the revenues received by the city of Buffalo, as excise moneys under the excise laws of the state.

Thus amended by L. 1899, c. 253.

This amendment added subdivision 7.

§ 267. The Mayor, the members of the Board of Fire Commissioners, and the chief engineer of the Fire Department of the city, and their successors in office, are hereby constituted the Board of Trustees of the Firemen's Relief and Pension Fund. The said Board of Trustees shall have the exclusive control, management, and distribution of said fund. The Mayor shall be chairman of said Board of Trustees. The secretary of said Board of Fire Commissioners shall be the secretary of said Board of Trustees. The Treasurer of the city shall be the treasurer of such Board. Each of these officers shall serve without additional compensation. When this act takes effect, the Mayor shall call a meeting of the officers hereby designated to constitute such Board of Trustees, for the purpose of carrying the provisions of this chapter into effect. The said Board of Trustees are hereby authorized to adopt rules and regulations for its government; and it shall hear and determine all applications for relief or pension under this chapter, and its decision shall be final and conclusive, and not subject to review or reversal except by said Board of Trustees; it shall cause to be kept a record of all its proceedings and meetings.

Thus amended by L. 1897, c. 161.

This amendment made the City Treasurer, instead of the Chairman of the Board of Fire Commissioners, treasurer of this fund.

§ 268. 1. The said Board of Fire Commissioners shall have the power and authority by a majority vote to retire or discharge from all service in the Fire Department, any officer or member thereof who may be found on examination by the surgeon of the department, duly certified under oath, disqualified physically or mentally for the performance of his duties in the department by reason of disease or disability caused or induced by the actual performance of the duties of his position without fault or misconduct on his part.

2. Every officer or member of said department who may have become permanently incapacitated from performing full duty as a fireman by reason of disease or disability caused or induced by injury, or by long service and exposure while in the line of his duty as a fireman, without fault or misconduct on his part, may, on his own application, be retired from service by a majority vote of such Board, provided the applicant has been examined by the surgeon of the department, and his sworn certificate filed, showing that the applicant is permanently disqualified from performing the duties of a fireman. A pension shall be granted and paid to each person so retired from the said Firemen's Relief and Pension Fund equal to one-half the annual compensation allowed him as a salary at the date of his retirement from the service, or such less sum in proportion to the number of offices and members so retired, as the condition of the fund shall warrant. But no officer or member of said department shall be entitled to any allowance as pension under the provisions of this chapter, during the time he shall be receiving full salary from said Fire Department.

3. The widow, minor child or children dependent parent or parents of any deceased officer or member of said Fire Department, provided the death of such officer

or member occurs during his service in said Fire Department, and is caused or induced by injury or by long service and exposure while in the line of his duty, without fault or misconduct on his part, or after he has retired on account of disability, or is discharged as hereinbefore provided, by reason of his having become physically or mentally disqualified from performing his duty, shall be allowed and entitled to receive from said fund an allowance as pension. The amount of such pension shall be determined upon the following conditions:

a. To the widow of such officer or member, the sum of twenty-five dollars per month. But upon her remarriage, such pension shall cease.

b. To each child of such officer or member, under the age of sixteen years, the sum of five dollars per month. Upon the child attaining the age of sixteen years, such pension shall cease. In case the widow shall die or remarry, then the pension allowed to her shall be paid to the child or children of such deceased officer or member who shall be under the age of sixteen years. But all such payments to any child shall cease when such child becomes sixteen years of age. The whole amount paid to the widow, and minor child or children of any officer or member shall not exceed one-half the annual compensation allowed such officer or member at the date of his death or retirement.

c. To the dependent parent or parents of such officer or member the sum of twenty-five dollars per month. No pension shall be paid to a dependent parent or parents in case the officer or member of said Fire Department so dying shall leave him surviving, a widow or minor child or children. No more than one pension shall be paid in case both parents survive.

4. Said Board of Trustees shall pay the pension allowed and fixed by this chapter from said Relief and Pension Fund, and said Board of Trustees may in its discretion, pay the pension of said minor child or children

to their mother or to their general or testamentary guardian, or to the person or persons who shall have the care and custody of said minor child or children, and the decision of said Board of Trustees as to what is deemed for the best interests of said minor child or children shall be final and conclusive, and payment according to its determination of the pensions herein provided for shall be a full discharge for the moneys so paid.

5. This chapter shall apply to all who now are or shall hereafter become officers and members of the Fire Department of the city of Buffalo, and all of such persons shall be eligible to the benefits secured by the creation of this fund.

6. Pensions, as provided in subdivisions two and three of this section shall be paid to officers and members of the department who have been discharged or retired as therein provided, and to the widow, minor child or children, or dependent parent or parents of any officer or member who has been killed in the discharge of his duty or died on account of disability acquired in the service and in the line of duty after the passage of this act.

Thus amended by L. 1892, c. 18.

This amendment inserted the word "after" in the last line in place of the words "previous to" in the original law.

7. All moneys ordered to be paid out of said Pension and Relief Fund to any person or persons shall be paid by the Treasurer only upon warrants signed by the chairman of the Board, and countersigned by the secretary thereof, and no warrant shall be drawn except by the order of said Board, duly entered in the record of the proceedings of said Board. Said Board of Trustees is hereby authorized to deposit said fund in any of the banks of the city of Buffalo upon receiving adequate security therefor, or to invest the same in bonds and mortgages on improved real property worth twice the amount loaned, or in bonds of the United States, or of this state, or of the city of Buffalo, or of any city, county,

town or village of this state, issued pursuant to the authority of the laws of this state. All interest, income, or dividends which shall be paid or agreed to be paid on account of any such loan or deposit shall belong to and constitute a part of such fund. Nothing herein contained shall, however, be construed as authorizing the Treasurer to loan or deposit said fund or any part thereof unless so authorized by the Board.

8. The Board of Trustees shall make a report of the condition of said Pension and Relief Fund, to the Common Council, in the month of January in each and every year.

§ 269. 1. The said Board of Trustees may take by gift, grant, devise or bequest, free from taxation, any real or personal property, the annual income of which shall not exceed in the aggregate the sum of thirty thousand dollars. In any year when the condition of the Relief and Pension Fund shall render it in the judgment of the said Board of Trustees necessary, said Board of Trustees may receive from the authorities of the city of Buffalo a sum not exceeding five thousand dollars, to be included in the annual estimates of the said Board of Fire Commissioners, and drawn and collected by them in like manner as other moneys applicable to their expenses, and the amount so obtained shall at once be paid over to the said Board of Trustees, to be used as a portion of said Relief and Pension Fund.

2. No person shall store, keep for sale, sell or offer for sale in the city of Buffalo, any fireworks, kerosene, coal oil, naphtha, gasoline, gunpowder, or other explosives without first having obtained a license therefor from the Board of Fire Commissioners, and said Board of Fire Commissioners are hereby authorized and empowered to issue such license, and to recommend ordinances to the Common Council, fixing the fee for such license, and for regulating the keeping and sale of fireworks, kerosene, coal oil, naphtha, gasoline, gunpowder,

and other explosives in said city, and providing penalties to be paid for a violation of such ordinances, and for dealing in and keeping for sale, or storing such articles, without having first obtained a license therefor from said Board of Fire Commissioners.

3. The treasurer of said Board of Trustees is hereby authorized and empowered to receive, collect, sue for, and shall have the exclusive rgiht of recovery of any and all fines and penalties which are to be paid into said Pension and Relief Fund under this chapter. He may in his name as treasurer sue for, recover, and collect the same, with costs, in the manner provided for in actions under the Code of Civil Procedure, and all moneys so collected by him shall become a part of this Relief and Pension Fund. The said treasurer may in his name as treasurer bring any suit or action hereby authorized, and any action to recover any fee, fine or penalty under this chapter, or under said ordinances, may be brought in the Municipal Court of the city of Buffalo.

§ 270. 1. The Corporation Counsel of the city of Buffalo, without additional compensation, shall, under the direction of the said treasurer, take charge of the prosecution of all suits or proceedings instituted for the recovery and collection of fines, penalties, and the enforcement of the several provisions of this chapter, collect and receive all moneys upon judgments recovered, or in suits or proceedings so instituted, pay all costs and disbursements out of moneys collected by him under the provisions of this chapter,or received from the said treasurer for that purpose, and discontinue suits and proceedings, and execute satisfaction of judgments upon payment of fines, penalties or costs in compliance with orders made in such suits or proceedings. He shall keep a correct and accurate register of all suits and proceedings, and account for all money received and paid out thereon, and shall pay over to said treasurer the amount of all license fees, fines, penalties, and moneys received and col-

lected by him after deducting the amount of his disbursements actually incurred, and the said treasurer's receipt therefor shall be an acquittance of the moneys so collected and paid over by said Corporation Counsel. And said treasurer is hereby authorized to settle or compromise any suit or judgment for less than the amount of the same, with the consent of said Board of Trustees.

2. Any officer or board of officers of the city of Buffalo who shall realize, receive or derive any money, which, under the provisions of this chapter is made a part of this Relief and Pension Fund, is hereby directed to pay over the same on the first day of the month succeed* the receipt and collection thereof to the treasurer of the said Board of Trustees, to be used and applied as a part of said fund. These provisions shall apply to pay, compensation or salary, or any part thereof, collected, forfeited, deducted or withheld from any officer or member of said Fire Department, for or on account of absence for any cause, lost or sick time, sickness or other disability, physical or mental, or for any fine, penalty or forfeiture imposed upon such officer or member by way of discipline.

*So in the original.

3. All pensions granted under the provisions of this chapter shall be exempt from execution, attachment or any process whatever. The said fund shall be sacredly kept and held secure, and distributed and applied for the purpose of pensioning the persons named in this chapter, and for no other purpose whatsoever.

4. Every person, who knowingly or willfully, in any wise, procures the making or presentation of any false or fraudulent affidavit or affirmation concerning any claim for relief or pension, or the payment thereof, shall in every case forfeit a sum not exceeding two hundred and fifty dollars, to be sued for, and recovered by and in the name of said Board of Trustees, and when recovered it shall be paid over to, and thereupon become a part of

said Relief and Pension Fund. Any person who shall willfully swear falsely in any oath or affirmation in obtaining or procuring any pension or relief, or the payment thereof, under the provisions of this chapter, shall be guilty of perjury.

5. The said Board of Fire Commissioners is hereby authorized and directed, when this act takes effect, to pay and deliver the moneys and securities belonging to the said Firemen's Relief Fund to the treasurer of the said Board of Trustees, the same to become and constitute a portion of the Relief and Pension Fund created by this chapter.

TITLE X.

Chapter I.

DEPARTMENT OF PUBLIC WORKS.

NOTE ON AMENDMENTS TO THIS CHAPTER.

The Charter, as adopted in 1891, provided for a Board of Public Works, to consist of three Commissioners. One was elected in 1891 to serve three years from January 1, 1892, on which date the Mayor was to appoint two Commissioners for terms of one and two years respectively. Thereafter all terms were to be three years. The two appointed Commissioners were required to be of different political parties. By L. 1895, c. 805, the terms of office were changed from three years to four.

L. 1901, c. 228, abolished the Board and substituted a single elected Commissioner, also giving definite titles and salaries to the heads of the four bureaus in this department and requiring certain qualifications in persons appointed to these positions. This change seemed to the revisers to require the substitution of "Commissioner" and "he" in place of "Board" and "it," wherever the latter words occurred in the charter. Consequently many sections were amended by L. 1901, c. 228, but the changes were only verbal, except as noted above, and under Section 273. The powers of the department and its relations to the rest of the city government, have not been changed since 1891, except in one or two minor points, which are noted under the particular sections.

Any unexplained amendment of any section in this chapter may, therefore, be safely disregarded as making only verbal changes, leaving the substance of the section in force, exactly as printed, since 1891.

§ 271. There shall be a Department of Public Works of which the Commissioner of Public Works shall be the head. The Commissioner shall be elected. In case of vacancy in the office of Commissioner it shall be filled by appointment by the Mayor until and including the thirty-first day of December after the next general or municipal election, at which election a Commissioner shall be elected to fill the unexpired term. On the first day of January after the passage of this act the terms of office of the two Commissioners of Public Works required by this act to be appointed by the Mayor for full terms, shall cease, and all the powers and duties of the Commissioners, and of the Board of Public Works shall be vested in and imposed upon the Commissioner of Public Works who shall be elected at the municipal election held on the first Tuesday of November, nineteen hundred and one, as a legal successor in office of the Commissioner of Public Works heretofore required by law to be elected. The Commissioner of Public Works elected at the municipal election to be held on the first Tuesday of November, nineteen hundred and one, shall be elected for a term of office for two years, to commence January first, nineteen hundred and two, and end January first, nineteen hundred and four. At the municipal election to be held in November, nineteen hundred and three, the Commissioner of Public Works shall be elected for the term of office of four years, to commence on the first day of January, nineteen hundred and four, and end on the first day of January, nineteen hundred and eight. Thereafter the term of office of the Commissioner of Public Works shall be four years, except as hereinbefore provided in case of a vacancy in said office. The Commissioner of Public Works shall devote his whole time and attention to the duties of his office. He shall receive an annual salary of five thousand dollars. The Deputy Commissioners shall devote their whole time and attention to the duties of their respective offices. They shall each receive an annual salary of three thousand dollars,

until the same is fixed as hereinafter provided. The salaries of the Commissioner and of the Deputy Commissioners shall not be changed during their respective terms of office. The Commissioner of Public Works shall have charge and control:

Thus amended by L. 1895, c. 805, Sec. 18, and L. 1901, c. 228, Sec. 4.

1. Of all structures and property connected with the public water works, the supply and distribution of water, the collection of the water revenue, and of giving permits for house connections with the same, except the Jubilee water works. He shall have power to construct, maintain, extend, repair, and regulate waterworks, to supply the city and its inhabitants with water, and may cause water pipes to be laid in such streets in said city (paved or unpaved), as shall be ordered by the Common Council. He shall also have power to purchase and repair all necessary boilers, engines, machinery, tools, and supplies for maintaining the water works and distributing water.

Thus amended by L. 1901, c. 228, Sec. 4.

2. Of the designing, constructing, altering, and maintaining of the public sewers and drains, and of giving permits for house connections with same.

The Commissioner of Public Works shall have power to divide the city into sewer districts, and to make plans for the development and construction of systems of sewers in said sewer districts, including main sewers, branch sewers, and lateral sewers, and to make, certify, and file in his office, maps, plans, and descriptions (complete or partially complete) of said sewer districts, and of systems of drainage developed, and proposed to be developed therein, which maps, plans, and descriptions when so certified and filed, shall be public records of the city; and the proposed systems therein embodied shall not be changed thereafter to the detriment of any parcel of land which has been assessed, and has paid for the construction of any part of the said system of sewers or

drainage, which is proposed to be changed, without compensation or provision for compensation, for such change. The amount of such compensation shall be ascertained by the Supreme Court in a proceeding taken for that purpose in said court by the city, or by any interested person; but such a proceeding must be begun within three months after the notice of the filing of such new plans is published in three successive issues of the official paper, or the right to such compensation shall be barred.

Thus amended by L. 1892, c. 424; L. 1901, c. 228, Sec. 4.

The act of 1892 added all after the first sentence. This addition provides for sewer districts.

3. Of locating, laying out, opening, constructing, altering, regulating, grading, regrading, paving, repaving, curbing, guttering, repairing, cleaning, sweeping, and sprinkling all streets, avenues, places, alleys, and roads (except such as are placed in charge of the Park Commissioners); of removing ashes and garbage, keeping streets, avenues, alleys, and places free and clear of all encroachments, obstructions, and incumbrances, granting builders' permits to occupy streets, laying of side and crosswalks, numbering houses, putting up street names, and superintending the erection of awnings.

4. Of the lighting of streets, avenues, places, alleys, and roads; the cleaning and repairing of public lamps, inspecting of gas and lamps, electric lights, electric wires, conduits and building connections with electric plants, the locating and removing of all gas mains, telegraph, telephone, and electric light poles; and he may cause all telegraph, telephone, and electric light wires to be placed under ground, pursuant to directions of the Common Council.

Thus amended by L. 1901, c. 228, Sec. 4.

5. Of constructing, repairing, and maintaining all bridges, canals, wharves, docks, piers, basins, slips, aqueducts, tunnels, and culverts belonging to the city; and

to regulate the maintenance and repairing of sheating, sheet piling, wharves, and piers situated on public waters, and belonging to persons and corporations other than the city, in so far as it is necessary to maintain or repair the same to prevent the obstruction of such public waters, and to preserve the banks thereof; and the Common Council shall have power to cause any sheating, sheet piling, wharf and pier situated on public waters to be built, altered, repaired or rebuilt, and to regulate and direct the building, altering, repairing or rebuilding of the same, in so far as it is necessary to build, repair, alter or rebuild the same to prevent the obstruction of such public waters, and to preserve the banks thereof; and to cause the expense thereof to be assessed upon the real estate benefited thereby, in the same manner as is by this act provided for the making and collecting of other local assessments, the work provided for herein to be done under the supervision and control of the Commissioner of Public Works.

Thus amended by L. 1901, c. 228, Sec. 4, and L. 1907, c. 650, Sec. 1.

The amendment of 1907 added all after the third line.

6. Of the constructing, altering, and repairing of public buildings, including school, fire, police, and water buildings.

7. Of the filling of sunken lots, the fencing of vacant lots, licensing of vaults underneath streets, and of stairways, areas, and projections in the street.

8. Of repairing and closing wells, pumps, and hydrants, and abating all nuisances on the requisition of the Board of Health.

9. Of making and preserving all surveys, maps, plans, estimates, and drawings relating to the laying out and improvement of streets, avenues, roads, alleys, sewers, water and gas mains, bridges, telegraph, telephone, and electric light mains, the constructing, alter-

ing, and repairing of public structures, buildings, and offices, and all other public works under the care of the said department.

§ 272. When any work or improvement, general or local, prescribed in this title, is necessary or advisable, the Commissioner may recommend the same to the Common Council, with or without plans, specifications, and descriptions. The Common Council may thereupon order the work done or may order that plans, specifications, and descriptions shall be furnished with or without estimates of cost, or bids from responsible parties who will contract with the city to do the prescribed work. The Common Council may order any work or improvement, either with or without the recommendation of the Commissioner of Public Works, but when such work or improvement is ordered in accordance with the plans, specifications, or descriptions, a contract therefor shall be made by the Commissioner, except where he is authorized to do the work himself. All work and improvements ordered shall be under the direction and supervision of the Commissioner, and when he shall make report to the Common Council of his action, the Council shall provide for the payment thereof, either from the general fund, or by local assessment, or both, as in this act prescribed. And no such work shall be executed until payment therefor has been provided as required by this act. He shall make a special report of any work done or contracted for when required by the Common Council or Mayor, and a general monthly report to the Common Council of his transactions for the previous month. The Common Council upon the recommendation of the Commissioner of Public Works, and upon such terms and for such time, not exceeding five years, and upon such conditions as said Commissioner may prescribe, may authorize said Commissioner to enter into contract with any person or corporation for cleaning any or all the streets, alleys, public parks, wharves, and

grounds of the city, and for removing the dirt, ashes, rubbish and garbage therefrom, or for cremating or otherwise disposing within or without the limits of the city of such street cleanings or such ashes, rubbish or garbage but the annual cost or expense thereof shall be placed in the annual estimates of said department, and paid in equal annual proportions.

Thus amended by L. 1901, c. 228, Sec. 5.

§ 273. There shall be four bureaus in the Department of Public Works, each in charge of a Deputy Commissioner, who, together with all officers, subordinates, and employees of the Department of Public Works, shall be appointed and removed by the Commissioner of Public Works, and their salaries and pay shall be fixed by the Commissioner of Public Works with the concurrence of the Common Council. In all cases in which by the general laws of the state compensation is required to be paid weekly, pay accounts for employees shall be certified to the Common Council accordingly, and pay accounts for the Commissioner, his deputies, officers, and employees not required to be so paid, shall be certified semi-monthly; and on receipt of the same the Common Council shall order the proper warrants for the payment of said accounts to be drawn on the Treasurer. All matters and things under the charge and control of any officer or department on the day preceding the first Monday of January, eighteen hundred and ninety-two, the charge and control of which are not by this act vested in some other officer or department, shall be under the charge and control of the Commissioner of Public Works on and after the said first Monday of January.

Thus amended by L. 1901, c. 228, Sec. 5.

This law gave the chiefs of bureaus the title of Deputy Commissioner. It also provided for payment of employees semi-monthly instead of monthly.

1. A bureau having under the Commissioner the charge and care of the construction of sewers, the granting of permits for sewer connections and their inspection,

the locating, laying out, opening, grading, regrading, curbing, guttering, paving, repaving, and repairing of all streets, avenues, alleys, and places; constructing and repairing roads, flagging, and repairing sidewalks, laying crosswalks, filling sunken lots, digging down lots, constructing and repairing all wells and pumps, setting up lamp-posts, building docks and bulkheads, and repairing the same, building and repairing bridges, making and preserving all maps, surveys, plans and estimates, and drawings relating to the laying out, regulating, grading, and paving of all streets, alleys, and avenues, and any other public improvements to be done by or under the supervision of the department. The chief officer in charge of this bureau shall be a Deputy Commissioner, and shall be called Deputy Engineer Commissioner. He shall be a reputable and practical civil engineer of not less than thirty years of age, and with an actual experience as an engineer of not less than five years. Within ten days after the qualifying of the Commissioner of Public Works he shall appoint a Deputy Engineer Commissioner to serve at his pleasure. The Deputy Engineer Commissioner shall in the absence or inability of the Commissioner of Public Works act as such Commissioner of Public Works. Upon the appointment and qualification of such Deputy Engineer Commissioner the term of office of the present Chief Engineer shall cease.

Thus amended by L. 1901, c. 228, Sec. 5.

This law added the sentence providing for a Deputy Commissioner and all that follows.

2. A bureau having under the Commissioner the charge and care of all the ponds, conduits, reservoirs, tunnels, piers, engines, pumps, and lands connected with the waterworks, and of laying all water pipes, and the construction of all new work relating thereto, the extension, and distribution of the water, the control of making all house connections with water mains, the setting of all water meters, taking and preserving their record, the setting and repairing of fire and drinking

hydrants and keeping the same free from ice, and the collection of the revenue arising from the sale and use of water. The chief officer in charge of this bureau shall be a Deputy Commissioner, and shall be called Deputy Water Commissioner. He shall be a reputable and practical mechanical or civil engineer of not less than thirty years of age or a person who has had the practical experience in the trades or professions of not less than five years, but these qualifications shall not render ineligible for appointment the person holding the office of water superintendent on the thirty-first day of December, nineteen hundred and one. The Deputy Water Commissioner shall in the absence or inability of the Commissioner of Public Works and the Deputy Engineer Commissioner act as such Commissioner of Public Works. Within ten days after the qualification of the Commissioner of Public Works he shall appoint a Deputy Water Commissioner to serve at his pleasure. Upon the appointment and qualifying of such Deputy Water Commissioner the term of office of the present Water Superintendent shall cease.

Thus amended by L. 1901, c. 228, Sec. 5.

This law added the sentence providing for a Deputy Commissioner and all that follows.

3. A bureau of building, having under the Commissioner the charge and care of the construction, alteration, and repair of all buildings in the city. The chief officer in charge of this bureau shall be a deputy commissioner, and shall be called Deputy Building Commissioner. He shall be a reputable and practical builder or architect or a person of practical experience in the building trades, not less than thirty years of age, and with an active experience in the trades of not less than five years. The Deputy Building Commissioner shall, in the absence or inability of the Commissioner of Public Works and the deputies of the engineering and water bureaus, act as Commissioner of Public Works. Within ten days after the qualifying of the Commissioner of Public

Works, as named in this act, he shall appoint a Deputy Building Commissioner to serve at his pleasure. Upon the appointment and qualifying of such Deputy Building Commissioner the term of office of the present superintendent of buildings shall cease. The Deputy Building Commissioner shall also superintend the construction, alteration and repairs of all public buildings, and see that all building laws enacted by the State Legislature or passed as ordinances by the Common Council are enforced. The Commissioner shall appoint not less than three inspectors of buildings, who shall be under the control of the Deputy Building Commissioner. These inspectors shall be practical building mechanics of not less than five years' experience in their trade.

The sentences conferring the title of Deputy Building Commissioner and prescribing eligibility qualifications for appointment were added by the amendment.

4. A bureau having under the Commissioner the charge and care of cleaning, sweeping, and sprinkling streets, removing ashes and garbage, keeping the streets, avenues, alleys, and places free and clear of all encroachments, obstructions, and encumbrances, supervising, inspecting, and cleaning sewers, regulating the occupancy of streets by licensed hacks, carts, and trucks, granting builders' permits to occupy streets, numbering of streets, putting up street signs, cleaning and repairing public lamps, inspection of gas and lamps, electric lights, electric wires, conduits, and building connections with electric plants, the erection of awnings. The chief officer in charge of this bureau shall be a Deputy Commissioner, and shall be called Deputy Street Commissioner. In the absence or inability of the Commissioner of Public Works, and the Deputies of Engineering, Water, and Buildings, he shall act as Commissioner of Public Works. Within ten days after the qualifying of the Commissioner of Public Works as named in this act he shall appoint a Deputy Street Commissioner to serve at his pleasure. Upon the appointment and qualifying of such Deputy

Street Commissioner the term of office of the present superintendent of streets shall cease.

This law added the sentence providing for a Deputy Commissioner and all that follows.

§ 274. No person shall construct any of the works mentioned in subdivision one of section two hundred and seventy-one of this act without the written authority of the Commissioner of Public Works.

Thus amended by L. 1901, c. 228, Sec. 5.

§ 275. All repairs of accepted streets, and the construction and repair of all crosswalks and approaches to crosswalks, shall be paid for from the general fund. For the purpose of this title the construction and repair of all crosswalks, and approaches to crosswalks shall be deemed repairs of accepted streets.

Thus amended by L. 1894, c. 289, Sec. 2.

Before the amendment this section read, "All repairs of accepted streets shall be paid for from the general fund."

§ 276. The Commissioner of Public Works shall estimate annually the amount necessary to be expended during the ensuing year for repairs to accepted streets, and shall return the said estimate to the Comptroller, with his other estimates of the department.

Thus amended by L. 1901, c. 228, Sec. 5.

§ 277. The Commissioner of Public Works shall cause the accepted streets to be repaired, without the previous order of the Common Council, and shall employ the necessary men, and purchase the necessary materials. When any such work has been done or any material has been purchased, the Commissioner shall certify the expense of the same to the Common Council. The Common Council shall thereupon order the proper warrant for the payment thereof to be drawn on the Treasurer.

Thus amended by L. 1901, c. 228, Sec. 5.

§ 278. For the purpose of this title, repairs of streets shall be deemed to include the cleaning and repairing of all public sewers and receivers.

§ 279. All streets or parts of streets paved at the time this act takes effect, or which shall subsequently be paved, shall be deemed accepted streets within the meaning of this title, and shall be repaired when necessary, if the Commissioner of Public Works certifies that less than one-third of the carriageway is in condition requiring repairs, but whenever the Commissioner of Public Works shall certify that it is not expedient to make further repairs upon the pavement in an accepted street, or in the portion thereof between two streets that intersect or meet the same, the Common Council may order said street, or the portion thereof mentioned in such certificate, repaved, and two-thirds of the expense thereof shall be paid by local assessment, and the remaining one-third thereof shall be a charge on, and paid out of the general fund of the city, as in this act provided. All acts and proceedings heretofore had or taken by the city of Buffalo, its departments and officers, to repave or repair an accepted street, or any part thereof, and to defray the expense of such repaving or repair by local assessment, are hereby legalized, ratified, and confirmed, but nothing in this section contained shall affect any action or proceeding at law now pending.

Thus amended by L. 1900, c. 749; L. 1901, c. 228, Sec. 6, and L. 1903, c. 392.

The amendment of 1900 provided for repaving any one or more blocks when beyond repair; there was doubt previously whether any repaving could be done on less than the entire length of a street. The amendment of 1903 provided that one third of the cost of repaving should be paid from the general fund; previously the whole cost was paid by local assessment.

§ 280. The Commissioner of Public Works shall estimate annually the amount necessary to be expended during the ensuing year for the cleaning and repairing of all public sewers and receivers, and shall return such

estimate to the Comptroller with the other estimates of the costs of the department.

Thus amended by L. 1901, c. 228, Sec. 7.

§ 281. The Commissioner of Public Works may cause surveys to be made of all the streets and public squares of the city, and shall from time to time, as such surveys progress, file descriptions and surveys of such streets and squares in the office of the City Clerk. Such surveys and descriptions, and certified copies thereof, shall be evidence of the existence of the streets and squares so surveyed and described, and their boundaries and location.

Thus amended by L. 1901, c. 228, Sec. 7.

§ 282. No Commissioner of Public Works or Deputy Commissioner, and no subordinate or employe of the department shall be pecuniarily interested in any contract made for the department, or in the purchase, sale, or repair of any article used by it.

Thus amended by L. 1901, c. 228, Sec. 7.

§ 283. No expenditure or contract exceeding or involving the sum of five hundred dollars shall be made by the Commissioner of Public Works without the consent of the Common Council. Before the Commissioner of Public Works shall enter into a contract for the performance of any work, the expense of which shall exceed the sum of five hundred dollars, he shall cause a notice to be published in the official paper, and two other daily papers in the city, twice a week for two weeks, inviting proposals for the same, according to the plans and specifications to be filed in his office, and the contract shall be let to the lowest responsible bidder, who shall furnish security for its performance satisfactory to the Commissioner of Public Works.

Thus amended by L. 1901, c. 228, Sec. 7.

§ 284. The Commissioner of Public Works shall make and enforce rules and regulations for the govern-

ment of the officers and employes of the department in the discharge of their duties.

Thus amended by L. 1901, c. 228, Sec. 7.

§ 285. The Commissioner of Public Works shall subject to the approval of the Common Council, fix the rates to be charged for the use of water, and shall have charge of the collection thereof. He shall have power to adjust the rates as established, and to increase or diminish the rates in cases where consumers increase or lessen their consumption of water,and to refund a proportionate amount of rates paid in cases where consumers cease to use water. Water rates shall be payable semi-annually in advance, on days to be fixed by the Commissioner of Public Works. The Commissioner of Public Works may divide the city into districts, andfix the days on which the rates in each district shall be paid.

Thus amended by L. 1901, c. 228, Sec. 7.

§ 286. The Commissioner of Public Works shall pay daily to the City Treasurer, all moneys received by him from any source, and make a report at the same time to the Comptroller. All moneys accruing each fiscal year from the sale and use of water shall be used for the payment of interest on all outstanding water bonds and of principal due and payable in that year on water bonds not renewable, so far as the same may be available, and the balance, if any, shall be applied as a resource in the appropriations to be raised by tax for the next fiscal year.

Thus amended by L. 1901, c. 228, Sec. 7, and L. 1902, c. 552.

§ 287. All claims against the city, connected with this department, shall be audited by the Commissioner of Public Works before being presented to the Common Council. The time during which any claim shall remain in the hands of the Commissioner of Public Works for audit shall not be a part of any time limited for the commencement of an action against the city, and the time of such limitation shall be extended accordingly.

Thus amended by L. 1901, c. 228, Sec. 7.

§ 288. It shall be the duty of the owner or occupant of any premises in the city, whenever such work shall be ordered by a resolution of the Common Council, to lay water, sewer, and gas service pipes from the main pipes in the street in front of such premises to such point beyond the curb line as the Commissioner of Public Works may determine. It shall also be the duty of such owner or occupant to lay and relay sidewalks in front of such premises whenever the same shall be so, as aforesaid, ordered, and to at all times keep and maintain the sidewalk in front of such premises in good order and repair, and to remove snow and ice therefrom within the time, and as required by the city ordinances. The Commissioner of Public Works shall notify the owner or occupant of any premises in front of which any such work, excepting the removal of snow and ice, and repair of sidewalks, shall be required to be done, that if the same is not done by the owner or occupant within ten days, the same shall be done by the city, and the expense thereof will be assessed upon such premises. Such notice may be served personally, or by mailing the same in the manner prescribed in section one hundred and fifty of this act for the mailing of notices by the Assessors. In case any such work shall not be done within the time specified in such notice, and in case any such owner or occupant shall fail or neglect to keep the sidewalk in front of any premises owned or occupied by him in good order and repair, or to remove the snow or ice therefrom, as required herein, said Commissioner of Public Works may cause such work to be done and the expense thereof shall be a charge and lien upon such premises. The Commissioner of Public Works shall cause a monthly assessment-roll to be made for all such work, and for removing material and obstructions from public streets completed during the month, and work shall not be deemed completed until all included in one resolution of the Common Council shall be finished, and any such work omitted from a monthly assessment-roll may be

included in the next. Such rolls shall contain descriptions of the premises and the names of the owners, the same as are required in local assessment-rolls made by the Assessors, and also stated in separate columns, the charge against the respective parcels of land for each kind of work above specified, and shall be entitled "assessment-roll for water, sewer, and gas connections, constructing, repairing and cleaning sidewalks, and removing street obstructions," specifying the month and year, and shall be arranged by streets alphabetically, and shall be prepared and remain on file in the office of said Commissioner of Public Works, open to inspection by any person interested, and to revision by said Commissioner of Public Works for at least one week prior to the first day of the second month after the completion of the work for which the roll is made. Previous notice that the roll will be so open to inspection, and subject to revision and correction, shall be given by mailing the same to each person so assessed, as hereinbefore provided for mailing notices, and during such time the Commissioner of Public Works may hear interested parties, and shall make such correction, changes, and alterations in such roll, and in the assessments therein, as shall be deemed just and equitable. Where any assessment has been omitted from such a roll, or where any assessment therein is on the wrong premises, or where the Commissioner of Public Works shall require further time, or where, for any reason, the Commissioner of Public Works deems it advisable to strike an assessment from such a roll, that may be done, and the omitted or delayed assessment shall be assessed and included in the monthly roll prepared next thereafter, provided, however, that in addition to mailing notices as hereinbefore provided, the Commissioner of Public Works shall give notice to the owners of land upon which any previously omitted or delayed assessment is to be spread, by publishing the same in one issue of the official paper within three days prior to the first day such roll will be open to inspection

and revision. After the roll shall have been corrected and revised, proof by affidavit of the giving of the notices herein required shall be attached thereto, and it shall be certified by the secretary of the Commissioner of Public Works, and filed with the City Clerk on or before the tenth day of the next month after the roll shall have been prepared. Objections to such roll, or to any item thereof, may be filed with the City Clerk on or before the fifteenth day of said month, and either before or after the roll shall be filed with him, in the same form as objections filed with him to other local assessment-rolls. If no such objections shall be so filed, the City Clerk shall at the first meeting of the Common Council after said fifteenth day of the month, report to the Common Council that no objections have been filed, and the Common Council shall adopt a resolution confirming the roll. If any such objections shall be so filed, the City Clerk shall at the first meeting of the Common Council after said fifteenth day of the month, present the same to the Common Council, which shall on that day, or on such other day or days as it shall appoint, hear the objections and confirm the roll, in whole or in part, and may by a two-thirds vote in each Board correct or revise it, and confirm it as so corrected or revised. Upon the confirmation of any such roll, the City Clerk shall attach to it his certificate that the roll has been confirmed, and deliver the same to the Comptroller, and it shall be proceeded with as are local rolls made by the Assessors, and all of the provisions of the charter relating to local rolls made by the Assessors after the same have been confirmed and delivered to the Comptroller shall be applicable thereto. No assessment provided for herein shall be deemed invalid by reason of any error in the name of the person to whom notice is given or the name of the owner of the premises assessed, and all assessments herein provided for shall be assessed upon the lands and premises in front of which the work is done, according to the lineal frontage.

Thus amended by L. 1895, c. 805, Sec. 19, and L. 1901, c. 228, Sec. 8.

This section originally was brief, containing only a bare outline of the present provisions. As printed above, the section was practically all new in 1895. The law of 1901 made only unimportant verbal changes.

§ 289. The Commissioner of Public Works may establish, designate, and maintain hydrants within the city to supply the public with water, and the expense thereof may be assessed upon and collected from the property deemed benefited, in like manner as provided in title five of this act, for assessment and collection of assessments; and the Commissioner of Public Works shall designate the districts by boundaries within which such assessment shall be levied.

Thus amended by L. 1901, c. 228, Sec. 9.

§ 290. The Deputy Building Commissioner, under the direction of the Commissioner of Public Works, shall enforce the ordinances of the city, regulating the construction, alteration or repair of buildings in the city. He and the inspectors of buildings shall have authority to enter any premises or building for the purpose of examining its condition; and whenever in the judgment of the Deputy Building Commissioner any building or any part of a building shall be dangerous to the public, or unsafe, he may, under the direction of the Commissioner of Public Works, when the same shall be approved by the Common Council, order such building to be torn down, and in case his order shall not be obeyed, he may cause it to be torn down; or he may order it to be repaired so as to be safe, and in case his order shall not be obeyed, he may cause the proper repairs to be made.

Thus amended by L. 1901, c. 228, Sec. 9.

§ 291. The expense of removing or tearing down any unsafe building, or of making it or any portion thereof secure, shall be a lien on the property on which the building stood, and may be enforced and collected in the

same manner as a local assessment thereon, or it may be recovered from the owner of the premises upon which the building stood, by action brought in the name of the city.

§ 292. Before the construction or remodeling of any building in the city is commenced, the owner shall file with the Deputy Building Commissioner a sworn statement of the character and use of the building he proposes to erect, and its location on his premises. And in all cases, except where the building is a one or two-story frame dwelling, or one or two-story frame store, or dwelling within the limits where wooden buildings may be erected, he shall file a copy of the plans and specifications of such building, and a statement which shall contain the name and residence of the owner, and the purposes for which the building is designed, and which shall be sworn to by the owner or his authorized agent. The Commissioner of Public Works shall, within ten days after the filing of the plans, specifications, and statement, approve the same, or indicate in writing the alterations to be made therein to comply with the general laws of the state and ordinances of the city, and no building shall be erected or remodeled until the approval of the Commissioner of Public Works shall be obtained, and a written permit issued by him to the owner or builder of such building. Nothing herein contained shall affect the exclusive power of the Common Council to grant permits for buildings under subdivision five of section seventeen of this act.

Thus amended by L. 1901, c. 228, Sec. 9.

§ 293. The Commissioner of Public Works shall report to the Corporation Counsel any violation of the building laws of the state and ordinances of the city, for which a fine, penalty or forfeiture is prescribed, and the Corporation Counsel shall thereupon bring an action to enforce the same. In case the construction or remodeling of any building is commenced without the permission

of the Commissioner of Public Works, he shall order the work to be stopped. In case the work on the building is continued he shall report the facts to the Corporation Counsel, who shall, by action, enjoin the further prosecution of such work until the permission shall be obtained. The court shall enjoin the prosecution of the work, pending the action. The Corporation Counsel shall not settle or discontinue any such action without the written consent of the Commissioner of Public Works. The usual costs in an action at law and special proceedings shall apply to these proceedings.

Thus amended by L. 1901, c. 228, Sec. 9.

§ 294. The captains of police in the several districts of the city shall report daily to the superintendent of police all defective street lamps which may be discovered in their respective districts, and all street lamps which were not lighted during any night; and shall also report daily to such superintendent of police all defects which may be discovered in the streets or sidewalks, and all omissions to clean the same. And the superintendent shall make a consolidated report of the same to the Department of Public Works daily. Notice to any member of the police force of any defective streets shall not be notice to the city until actually received by the Commissioner of Public Works.

Thus amended by L. 1901, c. 228, Sec. 9.

§ 295. All gas, telegraph, telephone, and electric light companies, having subways or conduits, or any other persons or corporations having grants from the city for any subways or conduits in public streets or alleys, shall be required to file with the department, service maps and plans of all their mains, subways, and conduits in existence at the time this act shall go into effect, and shall thereafter obtain permission from this department for laying or relaying all mains, subways, and conduits.

§ 296. The Commissioner of Public Works shall have authority to purchase or lease a piece of land to be used as a store yard or depot of supplies, where shall be stored all materials necessary for repairing the public works which are under the charge of this department.

Thus amended by L. 1901, c. 228, Sec. 9.

§ 297. Before the city shall order the extension or alteration of the waterworks, or the construction, in whole or part, of new waterworks, the Commissioner of Public Works shall have power to determine upon the plans and specifications of such extension, alteration or construction, and no extension of said waterworks shall be ordered except upon the recommendation of the Commissioner of Public Works. When any extension, alteration or construction (except pipe laying), the expense of which shall exceed the sum of five hundred dollars shall be ordered, it shall be the duty of said Commissioner of Public Works to advertise by publication in the official paper, and in two other daily papers twice a week for two weeks, a notice inviting, until a certain day to be specified in the notice, sealed proposals to do the work and furnish the materials according to the plans and specifications on file in the office to be specified in such notice. But said Commissioner of Public Works may, in his discretion, employ necessary labor, purchase necessary supplies for, and cause any or all water pipes to be laid under his own supervision.

Thus amended by L. 1901, c. 228, Sec. 9.

§ 298. When any work or repairs not herein otherwise specially provided for shall be ordered by the Common Council upon or in front of premises, the Commissioner of Public Works shall notify the owner or occupant personally or by mail, at least ten days before the Commissioner of Public Works will undertake the work, that if such work or repairs is not done or made within ten days, the same will be done by the Commissioner of Pub-

lic Works, and the expense thereof, together with twelve per centum per annum from the time the work was done, will be assessed upon the premises in front of or upon which the same shall be done or made in the manner that other local assessments are made.

Thus amended by L. 1894, c. 289, Sec. 3, and L. 1901, c. 228, Sec. 10.

Before the amendment of 1894, this section referred only to "repairs to sidewalks or any other repairs in front of or work upon premises."

§ 299. The Commissioner of Public Works shall not, without the consent of the Common Council, expend n any one year any greater amount of money than shall have been appropriated by the Common Council in the annual appropriation for said year for said department, except as provided in section seventy-three.

Thus amended by L. 1901, c. 228, Sec. 11.

Chapter II.

JUBILEE WATERWORKS.

§ 300. The city shall have power to maintain, repair, and regulate the Jubilee waterworks for the use and benefit of the inhabitants of the parish tract.

§ 301. There shall be a Board of Jubilee Water Commissioners, which shall consist of three members, who shall be appointed by the Mayor, and hold their offices for the term of three years. Each Commssioner shall be a resident of the parish tract, and shall serve without compensation.

§ 302. The Jubilee Water Commissioners in office at the time this act takes effect shall constitute the first Board, and serve out the terms for which they were respectively appointed. Whenever a vacancy arises in such Board, by reason of the expiration of the term of office of any Commissioner, the Mayor shall appoint a Jubilee Water Commissioner to serve three years.

§ 303. The Board shall have charge of the management of the Jubilee waterworks and their appurtenances.

§ 304. The Board shall appoint, and may at pleasure remove, a superintendent.

§ 305. The Common Council shall fix, regulate, and levy the rates and charges for the use of the Jubilee water, and it shall provide for the assessment, levying, and collection thereof. It shall levy and assess upon the taxable property of the parish tract all other taxes necessary for the maintenance of the Jubilee waterworks, and provide for their collection; and may enact such ordinances as it may deem necessary to carry into effect the provisions of this chapter.

§ 306. All water rates, charges, penalties, and taxes shall, when collected, constitute a fund to be called the "Jubilee water fund," and shall be applied to the payment of all expenses or liabilities incurred in maintaining the Jubilee waterworks.

§ 307. All claims against the city, growing out of the maintenance of the Jubilee waterworks, shall be audited by the Board of Jubilee Water Commissioners before being presented to the Common Council. Nothing in this chapter contained shall be construed to repeal or affect chapter one hundred and fifty-four of the laws of eighteen hundred and ninety, except that no compensation shall be paid to any officer or employee mentioned in the eighth section of that chapter, unless such compensation shall be first authorized and approved by the Common Council by ordinance.

TITLE XI.

DEPARTMENT OF PARKS.

§ 308. There shall be a Department of Parks, of which the Board of Park Commissioners shall be the head.

It shall consist of five members, who shall be appointed by the Mayor, who shall also be a member of said Board, ex officio. The name and style of said Board shall be "the Park Commissioners." The terms of office of the Park Commissioners in office at the time the amendment to this section takes effect shall cease and terminate upon the appointment of the Board of Park Commissioners pursuant to the provisions of the section as amended, and such existing Board shall turn over to the Board appointed pursuant to this section as amended all the books, papers, records, money, and property in its possession or under its control as such Board of Park Commissioners. Within ten days from the time this act takes effect, the Mayor shall appoint five Park Commissioners, one for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, and one for the term of five years, and every year thereafter, upon the expiration of the term of office of a member of such Board, the Mayor shall appoint a Park Commissioner for a full term of five years. Should a vacancy occur in said Board by reason of death, resignation, or otherwise, except the expiration of term of office, the Mayor shall appoint a person to fill such vacancy, whose term of office shall expire at the end of the term of the one whose vacancy he is appointed to fill.

Thus amended by L. 1902, c. 19.

The amendment reduced the number of Park Commissioners from fifteen to five.

§ 309. No member of said Board shall receive any compensation for his services, but each Commissioner shall be entitled to receive his actual disbursements for expenses in visiting and superintending said park, when such visits or service shall be made or rendered by the direction of the said Board of Commissioners. No member of the Common Council shall be eligible to the office of Park Commissioner.

§ 310. A majority of the Board shall constitute a quorum for the transaction of business. The said Board shall have the full and exclusive power to make rules and by-laws for the orderly transaction of their business; to govern, manage, and direct, and to lay out and regulate the parks and approaches thereto; to appoint a superintendent and such engineers, surveyors, clerks, and other officers as may be necessary; to prescribe and define their respective duties, and to fix the amount of their compensation, and generally in regard to said parks and approaches thereto they shall possess all the power and authority now by law conferred upon or possessed by the Common Council in respect to the public streets, sidewalks, squares, and places in said city. The said Board shall have sole and exclusive power by contract or otherwise, to open, grade, construct, repair, and maintain the roadways of said approaches, and the assent of adjacent property owners thereto shall not be necessary; but no work shall be done where any part thereof is assessable, as hereinafter provided, until notice of intention to order it shall have been published in the official paper, by order of said Board, at least twice a week for two consecutive weeks before the same shall be ordered, the last publication to be at least one week before the same is so ordered, and all interested parties shall have an opportunity to be heard before said Board at such time as it shall appoint in such notice; provided that no notice or hearing shall be necessary in the case of work the expense of which shall not exceed two hundred dollars. The said Board shall have power to control sidewalk borders, and to plant, regulate, and maintain trees thereon, and to construct and lay, or cause to be constructed and laid, sidewalks on the said approaches, and to provide by ordinance for repairing the same, and removing snow, ice, and dirt therefrom, by or at the expense of the owners and occupants of the property in front of which such sidewalks may be, and to provide fines and penalties for violation of such ordinances, not

exceeding twice the cost of such repairing, and the removing of such ice, snow, and dirt, and all persons violating the same shall be deemed guilty of a misdemeanor, and punished as hereinafter provided. The said approaches shall, within the intent and meaning of this act, be deemed to include all lands within the boundaries thereof, together with all rights and easements appurtenant thereto, and such portions thereof as may be within the boundaries of intersecting city streets; provided, nevertheless, that the Common Council shall have jurisdiction of said intersecting city streets up to the curb line of such approach, but no new street shall be laid out to intersect any park approach without the consent of the Park Commissioners, and the expense of opening, grading, paving, repairing, and maintaining the roadways and sidewalks of such portions of said intersecting city streets shall be assessed and collected in the same manner as the expense of constructing, grading, and repairing the city streets or sidewalks. The officers and policemen heretofore appointed by the said Park Board, who are in office when this act takes effect shall continue in office as members of the regular police force of the city of Buffalo, with the rank and pay of patrolmen.

Thus amended by L. 1898, c. 83.

This section originally provided for a park police force, not exceeding twelve in number. The amendment struck out this provision and added the last sentence as printed above.

§ 311. It shall be a misdemeanor for any Park Commissioner to be directly or indirectly, in any way pecuniarily interested in any contract or work of any kind whatever connected with said parks or approaches thereto, and it shall be the duty of every person who may have knowledge or information of the violation of this provision, forthwith to report the same to the Mayor, who shall present the facts of the case to the Superior Court of Buffalo. The said court shall hear, in a summary manner, such Commissioner in relation thereto, and any evidence he may offer; and if after such hearing

the said court shall be satisfied of the truth of such charge, the judge holding the same shall by an order of said court, to be made at chambers or in term, immediately remove such Commissioner. Every Commissioner shall, before entering upon the duties of his office, take and subscribe the oath preser bed by the constitution of the State, which oath shall be filed in the office of the clerk of the Superior Court of Buffalo.

§ 312. The said Park Commissioners shall, in the month of January in each year, make to the Common Council a full report of their proceedings and a detailed statement of all their receipts and expenditures.

§ 313. It shall be lawful for the said Park Commissioners to let from year to year, or for any term not exceeding ten years, any buildings and the grounds attached thereto which may be within the boundaries of said park or parks, and the said Park Commissioners may sell any building, improvements, and product of said park or approaches, which in their judgment shall not be required for the purposes of said parks and approaches; and the proceeds of such leases and sales shall be deposited with the Treasurer of said city to the credit of the park fund, which is hereinafter created; and such proceeds shall be used by the said Commissioners for the improvement or maintenance of the said parks or approaches. It shall also be lawful for the said Park Commissioners to set apart to the Buffalo Fine Arts Academy, a corporation organized and existing under the laws of the State of New York, sufficient land for the construction thereupon of a permanent art building or buildings, and approaches thereto, said buildings to remain the property of said corporation, within that portion of said park or parks bounded on the east by Lincoln Parkway, or the extension thereof, north to the bridge across the Park Lake, on the north by North Bay, on the west by Elmwood Avenue, and on the south by the south boundary line of Delaware Park, and to that end the said Park

Commissioners are hereby authorized in their discretion to make and enter into a contract with the Buffalo Fine Arts Academy for the use and occupation of such lands within the boundaries of the said park or parks, by the said Buffalo Fine Arts Academy and its successors, and said contract may provide among other things that such use and occupation shall continue so long as the said the Buffalo Fine Arts Academy, or its successors, shall maintain upon said land an art building or buildings, which, with the general collection of works of art of said corporation, shall be free to the inspection and for the use of the public at all reasonable times; but it shall be lawful for said contract to provide for the suspension of such free public use and inspection during the Pan-American Exposition to be held in the city of Buffalo, and to provide for the temporary suspension of such free public inspection and use of any portions of such building which may be required from time to time for special exhibitions of works of art; and it shall be lawful for said contract to provide that no further buildings or encroachments of any kind shall be permitted upon that portion of the said park or parks within the boundaries above described, so long as the said art buildings shall remain upon the land to be set apart and occupied as herein provided.

Thus amended by L. 1900, c. 278.

The amendment added the provision for a site for the building of the Buffalo Fine Arts Academy and all that follows.

§ 314. The said Park Commissioners shall have power upon such terms, and upon the payment of such yearly license fee or such per capita tax as said Commissioners may prescribe, to grant to any street railway company the privilege of laying down and operating a railway, for the carriage of passengers only, through said approaches; but no street or other railway shall enter upon, in, or through the said park or parks without the consent of two thirds of the members of the Board. The said Commissioners shall have sole power to license hacks, omnibuses, and other vehicles for use in said park, parks, or

approaches, and boats for use on park waters under such regulations as the said Commissioners shall prescribe. All sums of money which may be received by the said Commissioners pursuant to this section shall be deposited with the City Treasurer to the credit of the park fund, and shall be devoted to the improvement and maintenance of said parks or approaches.

§ 315. The Common Council shall every year grant to the said Park Commissioners such sum of money as they shall require, and as to the said Common Council shall appear reasonable and just, for the government, improvement, paving, and maintenance of said parks and approaches, and for keeping in repair the improvements and structures therein, and for furnishing a suitable office for said Commissioners. One half of all expenses for opening, grading, paving, or constructing the roadway or roadways of the said approaches shall be paid from the general fund, and the other half be defrayed by local assessments upon the lands adjacent to such approaches, or which the Assessors shall determine to be benefited thereby, and shall be a lien thereon, and assessed, levied, and collected in the same manner as other local assessments, and when collected shall be paid into the park fund; provided that where any approach or part of an approach shall have three roadways, the whole expense of opening, grading, constructing,or paving the central roadway shall be paid from the general fund, and one half the expense of opening, grading, paving, or constructing either lateral roadway shall be assessed upon the private property adjacent to such lateral roadway and benefited thereby, and the other half shall be paid from the general fund. Where any approach, or part of an approach, has two roadways and no more, one half of the expense of opening, grading, constructing, or paving each roadway shall be assessed on the adjacent property benefited thereby, which shall be on the same side of the approach as the roadway on which the work shall be done, and the other half shall be

paid from the general fund. But the repair of all parkways and approaches which shall have been paved or macadamized, shall be paid for out of the general fund when less than one third of the roadway is in condition requiring repair. But, whenever on any one or more blocks or sections of any park approach, more than one third of the roadway requires repair the work shall be deemed paving anew, and shall be paid for as original paving. The Common Council shall order the expense of opening, grading, constructing or paving such approaches as is herein provided to be paid by adjacent property benefited, to be assessed, levied, and collected as local assessments, as hereinbefore provided, upon the same being reported to them by the Board, and all such assessments, when collected, shall be pa d into the park fund. The said Commissioners may construct, repair, and maintain sidewalks upon said approaches at the expense of the owners of the parcels of land in front of which the work is done, and shall report the expense of the work to the Common Council, which shall direct the same to be assessed upon the parcels of land in front of which the work was done or is to be done, in proportion to the benefit; and the Board of Assessors shall thereupon assess the same. Such assessments shall be liens upon the property assessed, and be levied and collected in the same manner as other local assessments. All moneys collected upon such assessments shall be paid into the city treasury to the credit of the park fund. The said Commissioners shall furnish annually an estimate of what sum of money they will require for the government, maintenance, and improvement of said park, parks, and approaches, specifying the particular improvements which are proposed to be made on any park approach, and the said Council in making its annual grant to said Commissioners shall specify each item, and the amount of each item of such estimate granted for improving any of such approaches, as well as the total amount. Said Commissioners shall not apply the mon-

eys so granted for any particular improvement on any park approach to any other purpose. The money granted by said Common Council shall be paid out of the park fund which is hereby created, when ordered by said Commissioners, upon their drafts, signed by the president and secretary, and countersigned by the Comptroller. The said annual estimate of the Commissioners shall be certified by the secretary of said Board, and furnished to the City Comptroller on or before the first day of February of each year, which estimate shall receive the same consideration by the Comptroller as estimates of the other city departments, and shall be included by said Comptroller in his annual estimates.

Thus amended by L. 1895, c. 705, Sec. 1, and L. 1900, c. 245.

The amendment of 1895 changed the manner of paying for repairs of pavements or roadways of park approaches. Previously one half of the cost of all such repairs, where the same exceeded two hundred dollars, was assessed on the adjacent property benefited. The amendment of 1900 gave the Comptroller the right to revise the annual estimate of the Park Commissioners, which previously he was required to include in his estimates without change.

§ 316. The said Board of Commissioners shall have the sole power to determine the places in said parks and approaches where sewers, and gas and water pipes shall be laid; and no trench for any sewer, gas-pipe or water-pipe shall be opened in any of said parks or approaches until said Commissioners shall have designated the location of the same. They shall have power, when the roadway or any approach is constructed or repaired, to cause connections to be made and extended from the sewers, gas-pipes, and water-pipes which may be therein, to the sidewalk border thereof, at such distances apart as they shall determine to be necessary. The expense of making such connections shall be a local tax, and shall be ordered by said Common Council to be assessed upon the parcels of land with which such connections shall be made, upon the expense thereof being reported to it by the Commissioners. The city may recover the

amount of such assessments, with the additions and interest, of the owners of such parcels, by action in its name, when they shall remain unpaid for more than sixty days after the rolls shall have been delivered to the City Treasurer, and may enforce the same as provided in title five of this act for the enforcement of assessments. Such assessments when collected shall be paid into the city treasury, to the credit of the park fund.

§ 317. None of the said Park Commissioners, nor any person, whether in the employ of said Commissioners, or otherwise, nor said Common Council, shall have the power to create any debt, obligation, claim, or liability for or on account of the said Park Commissioners, or of said park, parks, or approaches, except with the express authority of said Commissioners conferred at a meeting thereof duly convened and held. But said Park Commissioners may, with the consent and approval of the Common Council and Mayor, enter into contract with any person to repair and maintain the pavement of any approach or parkway for a term not to exceed five years, and when such contract is made the Common Council shall each year make the necessary appropriation to pay what may become due on the contract for that year.

Thus amended by L. 1895, c. 705, Sec. 2.

This amendment added the last sentence.

§ 318. No telegraph, telephone, or electric light wires, or other wires, or posts or supports therefor, shall be erected or placed in, upon, through, or over said park, parks, or approaches, without the consent of said Park Commissioners, and the said Commissioners shall have full power and authority to designate the place and places for and manner of erecting, placing, and maintaining the same, and may cause the places and manner of maintaining the same, whether heretofore or hereafter erected or placed, to be altered at such times and in such manner as they shall deem best for the interests of said

park, parks, and approaches, and may require such wires to be laid under ground.

§ 319. The office of any one of the said Park Commissioners who shall not attend the meetings of the Board for three successive months, after having been duly notified of such meetings, without satisfactory reason therefor, or without leave of absence, shall by said Board be declared vacant.

§ 320. Real and personal property may be granted, bequeathed, devised, or conveyed to the said city for the purpose of the improvement or ornamentation of the said parks or approaches, or for the establishment or maintenance therein of museums, zoölogical or other gardens, collections of natural history, observatories, libraries, monuments, or works of art, upon such trusts and conditions as may be prescribed by the grantors or devisors thereof, and agreed to by the Mayor, Common Council, and Park Commissioners. All property so devised, granted, bequeathed, or conveyed, and the rents, issues, profits, and income thereof, shall be subject to the exclusive management, direction, and control of said Park Commissioners. Real estate may also be conveyed to the city for the purpose of additions to said parks or approaches, provided that the location of such real estate, and the condition of the conveyance, be agreed to by the Mayor and Common Council, and by the Park Commissioners.

§ 321. It shall be lawful for said Board, at any meeting thereof duly convened, to enact such ordinances as it may deem necessary for the use, regulation, protection, and government of said parks and approaches, not inconsistent with the ordinances of the city or the provisions of this act, and to prescribe fines and penalties not exceeding one hundred dollars or imprisonment in the Erie County penitentiary not exceeding thirty days, or both, for their violation. Such ordinances, upon their passage, shall be published ten days in the official paper. The

secretary of the Board shall make and sign a record, in a book to be provided for that purpose, of every ordinance enacted by said Board, and of the times of its first and final publications; and such record, or a copy thereof, certified by the president or secretary, under his hand, shall be presumptive evidence in all courts and places of the due enactment and publication of such ordinance, and of the times of its first and final publications. The by-laws, ordinances, and regulations of the Board as now constituted shall be the by-laws, ordinances, and regulations of the Board as constituted under this act, until the same shall be repealed, superseded, altered, or amended by the Board hereby created. Copies of the record of the said ordinances kept by the secretary of the present Board, certified by the secretary of the Board hereby created, shall be presumptive evidence of their due enactment and publication.

§ 322. Every person offending against the ordinances of said Board shall be deemed guilty of a misdemeanor, and shall, upon conviction before the police justice or any court of competent jurisdiction, be punished by fine or imprisonment, or both, as prescribed in the ordinance violated; or in case no fine or imprisonment be provided by such ordinance, by fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days in said penitentiary, or by both such fine and imprisonment; and said police justice shall have jurisdiction of all offenses against said ordinances, and shall, subject to the provisions of this act, have the same power and authority as to such offenses, and the trial and punishment of all persons offending against the said ordinances, as he now has as to any case of misdemeanor which may be tried before him. All fines and penalties imposed by said ordinances may also be recovered as penalties in civil actions to be brought in the name of said city in the Municipal Court of Buffalo, and such suits shall be brought by the Corporation Counsel, upon complaint

made to him by said Board, or the park superintendent. The remedies hereby given shall be deemed to be in the alternative at the election of said Board or superintendent, and not to be cumulative. All fines and penalties collected hereunder shall be paid into the general fund.

§ 323. The terms "park" and "parks," as used in this act shall include the grounds known as the "Park," "the Parade," "the Front," and all parks and public grounds (not being an approach or part of an approach), which are now or may hereafter be under the control of the Board of Park Commissioners. The word "approaches," whenever it occurs in this act, shall include the avenues and parkways leading to or connecting said parks, which are now or may hereafter be under the control of the Board of Park Commissioners, and "the Circle," "the Bank," "Soldiers' Place," "Chapin Place," and "Bidwell Place," and all other lands forming and designated by the Board a part of an approach.

TITLE XII.

DEPARTMENT OF PUBLIC INSTRUCTION.

§ 324. The city has power to establish, maintain and regulate pul lic schools.

§ 325. The city shall be, by ordinance, divided into school districts, and from time to time, redivided, and in each district there shall be maintained one or more primary or grammar schools.

§ 326. Such schools shall be open and free to all persons between five and twenty-one years of age residing within their respective districts.

§ 327. The city may maintain and regulate one or more high schools, it may also maintain and regulate

schools for manual and technical training, into which may be admitted pupils who shall possess the qualifications prescribed by ordinance.

§ 328. The high school shall share in the literature fund of the State, and in all appropriations to academies. The primary and grammar schools shall share in the school fund of the State, and in the appropriations made to public schools.

§ 329. All expenses of the School Department shall be included in, and paid out of the general fund. The Comptroller is hereby authorized to embrace in his estimates a sum not exceeding two hundred and fifty thousand dollars annually, which shall be used solely for the purchase of school lots, and the erection, enlargement, repairs, and furnishing of school buildings. It shall be lawful for the city to raise an amount of money not exceeding three hundred thousand dollars to erect school buildings, and to furnish the same. And for such purpose it shall be lawful for the Common Council of said city, by a vote of two thirds of the members of each of the bodies composing said Common Council, from time to time, to authorize the issue of the bonds of said city, to an amount not to exceed in the aggregate, in addition to the amount now authorized by law to be issued, three hundred thousand dollars, bearing interest at the rate of not more than four per centum per annum, the interest to be paid semiannually; said bonds to be due in not less than twenty nor more than fifty years from their date Said bonds to be sold at not less than their par value.

Thus amended by L. 1893, c. 345, Sec. 7, and L. 1899, c. 586.

The amendment of 1893 added all after the first two sentences. The amendment of 1899 increased from $150,000 to $250,000 the amount authorized in the second sentence.

§ 330. The Superintendent of Education shall be at the head of this department. He shall from time to time recommend to the Common Council the course of study

to be pursued in the different public schools, and such measures as will, in his judgment, increase the usefulness and efficiency of the schools. He shall select all new teachers to be employed in the different schools, after this act shall take effect, from among the names from time to time certified to him, by the board of school examiners, except as hereinafter provided. He shall hire all teachers for the period of time, and at the compensation, and upon the terms and conditions, provided by ordinance. He shall see that the courses of study and systems of education established by ordinance are observed. If none be established by ordinance, he shall direct the courses of study and systems of education to be pursued. The teachers shall be subject to his orders and direction. He may suspend, and for cause, and after a hearing, with the concurrence of the Mayor, dismiss any teacher. He shall, on the second Monday in December of each year, make a full and comprehensive report to the Common Council of the condition of the schools up to the thirtieth day of June preceding. He shall appoint a citizen, who shall be well versed in the German as well as the English language, and whose duty it shall be to superintend the teaching of the German language in the public schools, and who shall also act, when not otherwise employed, as secretary to the superintendent. Nothing in this act contained shall be construed to authorize the appointment of more than one clerk for said department, unless authority therefor shall be given by the Common Council. All public school janitors provided by ordinance shall be appointed by said Superintendent of Education, and may be removed by him at his pleasure.

Thus amended by L. 1905, c. 109.

This amendment added the last sentence.

§ 331. The Mayor shall, within thirty days after this act shall take effect, appoint five citizens of Buffalo, who shall be known and designated as "the Board of School Examiners." They and their successors in office shall

each, before entering upon the performance of the duties of an examiner under this act, qualify in the manner prescribed for officers of the city government.

§ 332. The first examiners shall be appointed respectively one for one year, one for two years, one for three years, one for four years, and one for five years, from and after the dates of their respective appointments, unless sooner disqualified or removed, as hereinafter provided. The City Clerk shall indorse, upon the oath of office of each examiner appointed as aforesaid, the date on which his term of office expires, and shall, at least thirty days before the expiration of such term, notify the Mayor in writing of the name of the examiner whose term is to expire in that year. The Mayor shall, on the expiration of the term of any examiner, appoint an examiner to succeed the one whose term shall then expire, and who shall hold office for the term of five years unless sooner removed or disqualified as herein provided.

§ 333. The Mayor may at any time suspend, and for cause, and after a hearing, remove any examiner appointed under this act. Whenever any one of the examiners dies, resigns, is removed, or in any manner becomes disqualified to serve before the expiration of his or her term of office, the said office shall thereupon become vacant, and the Mayor shall, within thirty days after receiving notice of such vacancy from the secretary of the board of examiners, appoint another qualified citizen to fill such vacancy, as provided heretofore for regular appointments, who shall hold office for the unexpired term of such examiner, unless sooner removed or disqualified.

§ 334. The examiners appointed under this act shall hold at least one stated meeting in each month. At the first meeting of the examiners, which must be held within fifteen days after their appointment, and annually thereafter, the examiners shall choose one of their number to

act and be known as chairman, who shall preside at all sessions of the board. In case of the absence or inability of the chairman, the remaining examiners shall elect one of their number as chairman pro tempore to preside at any session. Three of their number shall constitute a quorum for the transaction of business. They shall at their first session, held as hereinbefore provided, appoint a secretary who shall perform clerical duties of the board. It shall be the duty of the board at the first monthly meeting of each school term to assign certain schools to the different members of the board for visitation and inspection during said school term, and to change the said assignments each term, to the end that all the schools shall be visited and inspected by the board at least once in each term.

Thus amended by L. 1901, c. 127.

Before this amendment the last sentence read: "It shall be the duty of each member of the Board to visit and inspect all schools at least once in each term."

§ 335. Any person hereafter desiring to secure a position as teacher in any of the public schools of the city shall apply to the secretary of the board, who shall thereupon furnish to such applicant a blank application, approved as to form by the board; the applicant shall fill out and sign said blank, stating in which of the three grades of teachers, hereinafter provided, he or she desires to be appointed. Such applicants* shall then be presented to the board, which shall after receiving the same, properly filled out and signed as aforesaid, notify each applicant of the next time and place of holding the examination of applicants for positions as teachers hereinafter provided.

*So in the original.

§ 336. For the purposes of this act the teachers in all public schools in the city are hereby divided into the following grades, designated respectively:

1. High school teachers.

2. Principals of grammar and primary schools.

3. Assistant teachers in grammar and primary schools.

4. Teachers in special subjects.

The Superintendent shall, as soon as practicable after this act shall take effect, and not later than thirty days thereafter, designate the subjects upon which applicants for teachers in their respective grades shall be examined, and prescribe the scope and limits of such examinations. The board of examiners shall from time to time prepare written or printed questions upon such subjects, within the scope or limits prescribed as aforesaid, which shall be used in the written examinations of such applicants as hereinafter provided. The superintendent may from time to time as he deems necessary, change the subjects and the scope of such examinations.

Thus amended by L. 1899, c. 627, Sec. 1.

This section originally divided all the teachers into three grades, designated as high school grade, grammar school grade, and primary grade.

§ 337. The examiners shall hold stated public examinations at such of their regular meetings as they may designate, and at least as often as once every six months, of all the applicants who have filed their applications with the secretary, as hereinbefore provided. They shall cause due notice of the time and place of holding such examinations, and the grades of teachers to be examined, to be published twice a week, commencing four weeks prior to each examination, in three of the daily newspapers of the city, and no examination shall be held by them unless so noticed. At the time of holding such examinations, they may first examine the applicants orally, for the purpose of ascertaining their general physical and moral fitness for teachers. No applicant shall be rejected for lack of educational qualifications without first being admitted to the written examination hereinafter provided for.

Thus amended by L. 1899, c. 627, Sec. 2.

This amendment changed the provisions for publication of notice of examinations, and also required that examinations should be held at least once every six months, instead of every three months as formerly.

§ 338. Each applicant who shall appear upon such oral examination to possess the moral, physical, and general qualifications essential and requisite to make a good practical teacher, shall then be subjected by the examiners to a written examination upon the subjects prescribed as aforesaid for the grade of teachers in which he or she seeks to qualify, by writing out, under the direction and supervision of the examiners, the answers to the questions on the subjects prepared as hereinbefore provided. Before beginning such written examinations, each applicant shall be required to select an envelope containing duplicate numbered cards, in such a manner that no one of the examiners shall know what number any applicant has. No two applicants shall be furnished with the same number. Each applicant shall write his or her name upon such cards, and sign his or her examination paper with the number on such card, omitting the name, and place one card in a blank envelope, and seal the same and deposit it in a box to be provided by the examiners before examination, retaining the duplicate card. At the close of the examination each applicant shall hand his or her examination paper, folded in such a manner as to conceal the number so signed, to the chairman of said examiners. The papers shall be examined by the examiners, and they shall, according to a uniform plan or standard, to be agreed to by them, mark on each paper the percentage which the applicant writing the same has passed, between one and one hundred inclusive, and after the papers are so marked the envelope containing the name of the applicant, and the numbers corresponding with their respective papers, shall be opened by the secretary in the presence of the board, and the names of the applicants endorsed upon their respective papers. The said examiners shall have

power, according to a uniform plan or standard, to determine the relative value of the subjects upon which each applicant is examined. All such examination papers, together with the applications of all who try the examinations, shall be filed and preserved in the office of the Superintendent, for at least three years after they are so filed, during which time they shall be open to public inspection.

Thus amended by L. 1899, c. 627, Sec. 3.

This amendment added the sentence next to the last, giving the examiners power to determine the relative value of subjects.

§ 339. The secretary shall prepare a list of all those who have passed seventy per centum, or over, on the written examination, and he and the chairman shall certify such list to the Superintendent, stating for which grade of teachers they were examined, and shall furnish to each applicant, who has so passed, a certificate signed by him and the chairman, stating the grade of teachers for which the applicant was examined, and that, in the judgment of the examiners, the person so examined is a person of good moral character, and qualified to teach in such grade. This list shall be kept by the Superintendent as a list of eligible candidates for three years from which to select teachers, and no teachers not employed in the public schools at the time when this act shall take effect shall thereafter be appointed or employed as a teacher in such schools, unless he or she has undergone the examination herein provided for, and holds such a certificate. In the employment of teachers, under this act, preference shall be given to residents of Buffalo.

§ 340. Nothing contained in this act shall in any manner affect or prohibit the reemployment of any teacher or teachers employed in said schools at the time when this act shall take effect, and they may be so appointed or reemployed without undergoing the qualifying examination provided for herein, in the discretion

of the Superintendent, as he has heretofore employed them.

§ 341. All new teachers appointed under the provisions of this act shall be first appointed on probation for six months before they shall be regularly employed as hereinbefore provided. Any teacher so employed shall receive the same salary for such period of probation as if regularly employed.

§ 342. The financial officers of the city are hereby prohibited from paying any salary to any person appointed a teacher in the public schools in violation of the provisions of this act.

§ 343. Any person who fails to pass any examination as high as the standard of seventy per centum may at any time after the expiration of three months, and within one year from the time he or she last tried such examination, apply to the secretary for admission to the next succeeding examination of applicants for teachers in the same grade for which he or she was last examined, and he or she shall be admitted to such examination on the same basis as other applicants, without any further or different application, and without any further certificate or proof as to good moral character unless required to furnish the same by the examiners.

§ 344. The examiners may prepare, adopt, and promulgate such rules or regulations as they may deem fit and proper, not inconsistent with any of the provisions of this act, for the conduct and management of their examinations, and the government of their meetings, and any rules or regulations which will aid them in carrying out the provisions of this act. But all rules and regulations pertaining to the examinations oral or written shall be uniform.

§ 345. The secretary shall keep a record of all their proceedings, which shall contain a list of all the appli-

cants certified to the Supenintendent as eligible for positions as teachers, and the grades in which they have passed as well as all matters necessary for the information and the use of the board and the Superintendent.

§ 346. The board shall make an annual report of their proceedings to the Common Council, on the second Monday in December in each year, which shall contain a statement in regard to the general condition of the schools as ascertained by their inspection, and a statement of the practical workings and effect upon the public schools of the system of examinations provided for by this act, and any suggestions which they may deem proper as to the improvement of such rules, and for the more efficient accomplishment of the purposes of this act.

§ 347. Any person who shall willfully and corruptly by himself, or in coöperation with one or more persons, defeat, deceive, or obstruct any person in respect to his or her right of examination, according to the provisions of this act or the rules and regulations prescribed pursuant thereto, or who shall willfully, corruptly, or falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined pursuant to the provisions of this act, or aid in so doing, or who shall willfully or corruptly make any false representations concerning the same or concerning the persons examined, or who shall willfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined or to be examined, shall, for each and any of said offenses, be deemed guilty of a misdemeanor.

§ 348. The city shall provide a suitable place for the meetings of the examiners, and also a place for holding the examinations, and shall furnish all necessary stationery and other supplies for the board. The expenses incurred by the board in carrying out the provisions of

this act, including salaries, shall be audited and paid like other accounts against the city, and shall be included in the expenses of the school department.

Thus amended by L. 1892, c. 22, and L. 1894, c. 33.

The act of 1892 added a provision that a vacancy in the office of Superintendent of Education should be temporarily filled by appointment by the Mayor, Comptroller, and President of the Board of Councilmen. The law of 1894 struck out this provision and restored the section to its original form.

§ 348a. The Mayor of the city of Buffalo, the Superintendent of Education, the chairman of the Board of School Examiners, the president of the Buffalo Schoolmasters' Association, and the president of the Women Teachers' Association shall constitute a Board of Trustees who shall have general care and management of the public school teachers' retirement fund created by this act.

This section added by L. 1896, c. 928; thus amended by L. 1905, c. 192.

This amendment made the President of the Buffalo Schoolmasters' Association a trustee in place of the President of the Principals' Association.

§ 348b. The said board of trustees is empowered to make payment from said fund of annuities granted in pursuance of this act, and to take all necessary and proper action in the premises, and from time to time establish such rules and regulations for the administration and investment of said fund as it may deem best.

This section added by L. 1896, c. 928.

§ 348c. The public school teachers' retirement fund, created by this act, shall consist of the following moneys, to wit:

1. An amount not to exceed one per centum per annum of the respective salaries paid to the Superintendent of Education, supervisors of grades, special teachers, principals, and assistant teachers, to be taken from said salaries in four equal installments.

2. All moneys received from donations, legacies, gifts, bequests, or otherwise for and on account of said fund.

3. All moneys which may be derived by such other methods as may be duly and legally devised for the increase of said fund.

This section added by L. 1896, c. 928.

§ 348d. All persons employed in the Department of Education, and hereinbefore mentioned as contributors to said fund, shall become annuitants under this act in manner following, to wit: Any female teacher who shall have taught in public schools for twenty-five years, and any male teacher who shall have taught in public schools for thirty years, may be retired by the Superintendent and become an annuitant to this fund during life, provided, however, that four-fifths of such service shall have been rendered in the public schools of the city of Buffalo. And any female teacher who shall have taught in public schools thirty-five years, and any male teacher who shall have taught in public schools for forty years, shall have the right to retire, and become an annuitant of said fund during life, provided, however, that four-fifths of such service shall have been rendered in the public schools of said city.

This section added by L. 1896, c. 928.

§ 348e. Any teacher so retired or retiring shall receive as an annuity, an amount not to exceed one half of the annual salary paid to said teacher at the time of such retirement, said annuity to be paid quarterly, provided, however, that such annuity shall not exceed the sum of six hundred dollars, which shall be paid by the said board of trustees out of the fund created in accordance with this act, in the manner provided by law for the payment of salaries.

This section added by L. 1896, c. 928.

§ 348f. No teacher shall become an annuitant under this act until he or she shall have paid into the retirement fund an amount equal to twenty per centum of his or her annual salary at the time of retirement.

This section added by L. 1896, c. 928.

§ 348g. Said board of trustees is hereby given the power to use both the principal and the income of said fund for the payment of annuities hereinbefore mentioned, and shall have power to reduce from time to time, the amount of all annuities; provided that such reduction shall be at the same rate in all cases.

This section added by L. 1896, c. 928.

§ 348h. If at any time a teacher who shall be willing to continue to teach shall not be reemployed, or shall be discharged before the time when he or she would under the provisions of this act be entitled to an annuity, then such teacher shall be paid back all the money which may have been deducted from his or her salary under the provisions of this act.

This section added by L. 1896, c. 928.

§ 348i. The Superintendent of Education shall, quarterly, in making the pay-rolls for the school department or the persons entitled to share in the fund hereby created, deduct a sum not to exceed one per centum of the amount of salary of each of such persons, and shall certify the amount of such deductions, and the names of the persons from whose salaries such deductions shall have been made; and such certificate shall accompany the pay-roll and a warrant for the amount of the deductions so certified shall be drawn payable to the order of the City Treasurer, who shall retain the same subject to the disposal of the said board of trustees hereinbefore mentioned.

This section added by L. 1896, c. 928.

§ 348j. The Treasurer of said city shall be the custodian of said fund, and he shall execute a bond to the city with good and sufficient securities to be approved by said board of trustees, conditioned for the faithful performance of the duties of his office. Such bond shall be filed in the office of the Clerk of the city, and in case of a breach of the same or the conditions thereof, suit may be brought on the same in the name of said city for the use of said board or of any person or persons injured by such

breach. The said Treasurer shall report to the said board of trustees the amount and condition of said fund on June thirtieth of each year.

This section added by L. 1896, c. 928.

TITLE XIII.

DEPARTMENT OF POOR.

§ 349. There shall be a Department of Poor, of which the Overseer of the Poor shall be the head. He shall be elected as provided by this act, and shall hold office for the term of four years.

Thus amended by L. 1895, c. 805, Sec. 20.

The amendment changed the term of office from three to four years.

§ 350. The Overseer shall have charge and control of all expenditures of money by the city for the relief of the poor.

§ 351. The overseer shall appoint, and may at pleasure remove such subordinates as the Common Council may by ordinance provide for, and the salaries of such subordinates shall be fixed by ordinance of the Common Council.

§ 352. The Overseer shall keep full records of all applications for city aid or relief, in suitable books to be provided for that purpose, and to be properly tabulated and indexed. He shall grant no aid or relief until after a strict investigation, made as hereinafter provided, except in case the Overseer is satisfied that life or health will be endangered by any delay, and in that event aid must be furnished immediately, and the investigation made within twenty-four hours. The Police Department, on the requisition of the Overseer, shall detail not less than two or more than four special policemen in each year, for conducting such investigation, and other serv-

ices in the Department of Poor, and the expenses of such police investigators, including necessary car fares and stationery, shall be expenses of the Department of Police, and estimated and defrayed as such. The police investigators shall be chosen with regard to their special fitness for such work. In all cases of application for aid or relief, the police investigators shall, under the direction of the Overseer, immediately investigate and report with recommendation to the Overseer and to the superintendent of police. It shall be the duty of the Overseer to ascertain in each case whether such applicant will become a permanent charge upon the city, and, if so, to certify the same in the proper book of records, whereupon the necessary steps shall be taken by him to cause such applicant to be placed in the proper abode provided by law. The primary investigation in cases requiring hospital aid or treatment may be made by a city physician, in place of a police investigator, and his report shall be sufficient. The Overseer may make such further personal examination in any case as he deems expedient, and may, in his discretion, refuse assistance in any case. The Overseer may grant assistance, except hospital treatment, to persons contrary to the report of the investigating officer, but in all such cases he shall enter fully in his records his reasons for so doing. No person shall receive assistance continuously for more than six months succeeding the report of an investigating officer, without a reinvestigation and new report made in like manner as is hereinbefore provided.

§ 353. Except in case of extreme exigency, the causes for which shall be fully entered in the Overseer's records, and then for not more than the period of one month, it shall not be lawful for the Overseer to grant aid or relief to any person with whose support the city is not chargeable under the general poor laws of the state; but he shall refer all such persons to the proper state or county officer.

§ 354. The Overseer shall prepare monthly a full statement showing the amount and kind of assistance granted during the previous month. He shall make a report to the Common Council prior to the third day of January in each year, which shall contain a summary of such monthly statements. The monthly statements, the reports of the investigating officers, and all the books and records pertaining to the department shall be systematically kept, and shall be open for examination at all times by any taxpayer of the city, and by officers of the Police Department, and the names and residences of all persons relieved, with other pertinent facts, shall be kept in such books and records. The Overseer shall also furnish to the Mayor a daily report of the aid and relief granted by him, with the names and addresses of all recipients.

Thus amended by L. 1892, c. 72.

The amendment required the annual report to be furnished before January third, instead of January thirtieth as formerly.

§ 355. No order for aid and relief of any kind shall be given to any person under the age of thirteen years at the office of the Overseer, whether it be for that person or for any other person; nor shall any such order be so given to any person of thirteen years or over and under the age of eighteen years, unless the Overseer shall be satisfied that great hardship would be caused by any delay in giving such order, and in that event he shall make special entries in his books of the facts bearing on the question, as stated to him at the time, and also as disclosed by an investigation which shall immediately be made.

Thus amended by L. 1892, c. 72.

The amendment added all after the middle of the fourth line.

§ 356. The aid and relief granted under this title shall be classified as follows: (a) Orders for provisions, boots and shoes, fuel, and other necessary articles to be furnished to applicants requiring temporary aid, designated

"outdoor aid." (b) Burial orders. (c) Orders for hospital aid or treatment, designated "indoor relief." Indoor relief in abodes provided by law for cases requiring permanent assistance shall be granted only by the Superintendent of the Poor of Erie County, or other proper state or county officer under the general laws of the state, and all cases requiring such relief shall be referred by the Overseer to the proper state or county officer.

§ 357. Orders for hospital aid or treatment shall only be made upon the recommendation of a city physician, specifying the nature of the disease or injury, or, if the exigency of the case is such that a formal recommendation cannot be obtained before the order is given, the case shall be personally examined, and the order approved or disapproved by a city physician within forty-eight hours thereafter.

§ 358. The Overseer shall contract for burials, and also for furnishing boots, shoes, and fuel upon the orders furnished by him, with suitable persons, under ordinances to be enacted by the Common Council.

§ 359. Orders of the Overseer for provisions, boots and shoes, or fuel, or other outdoor aid, shall specify what nature of articles shall be furnished on the same, and the value thereof. Except where contracts have been made as provided in the foregoing section, the order shall be drawn in blank as regards the person or firm drawn upon, and they shall be valid evidence of indebtedness against the city in the hands of the person or firm who shall accept and fill the same.

§ 360. It shall be a misdemeanor for any person or firm to furnish beer, liquors, or intoxicating drinks of any kind on an order of the Overseer of the Poor, or to buy such order from the person to whom it was issued, or from any other person, before it has been accepted and filled, or to furnish any article not specified or embraced

therein. Such orders shall be drawn with proper blank spaces for the following entries, which shall be made thereon by the person accepting and filling them: (1) name of the person presenting the order; (2) the name of the person accepting it; (3) the amount and kind of articles furnished, with the prices thereof; and they shall in all cases be returned by the acceptor, or his agents or assigns, to the Overseer, to be examined by him, and entered in his books of records, and to be countersigned by him before they shall be paid by the City Treasurer.

§ 361. The city physicians appointed under section two hundred and thirty-four of this act shall render all necessary medical services to indigent sick persons within their respective districts, under rules and regulations prescribed by the Overseer of the Poor, and approved by the Board of Health, and subject to his directions. The officers in charge of the several police precincts of the city may issue to the several city physicians orders to visit any indigent sick person residing within their respective districts, and it shall be the duty of said city physician to so visit any such person upon receiving such order, and any indigent sick person may apply to any officer in charge of a police precinct for such an order.

§ 362. The Overseer shall furnish the city physicians with official prescription blanks, which shall be used by the city physicians in prescribing medicines for the indigent sick attended by them on the order of the Overseer or the officers in charge of the several police precincts, under rules and regulations prescribed by the Overseer. Said prescription blanks shall be signed by the physician issuing them, and shall have the same force and effect, and be accepted and filed* in the same manner, and shall be returned and paid in the same manner as orders of the Overseer for provisions issued under section three hundred and fifty-nine of this act. Such prescriptions

shall be returned to the Overseer of the Poor within thirty days for payment.

*So in the original; should be "filled."

§ 363. The city physicians shall furnish to the Overseer reports weekly, and whenever required by the Overseer, of the names and addresses of all persons attended by them, with the nature of their ailments, the number of visits made to each, and the number and kind of prescriptions given to them.

§ 364. Any fraud practiced or false representation made by an applicant for city aid or relief, or by any other person, to procure aid or relief to be given, or to procure any order for outdoor aid to be accepted or filled, or to be paid by the city, or any willful act of any city officer or other person, designed to impede or in any way to interfere with the just and proper administration of this department shall be a misdemeanor.

TITLE XIV.

WARD OFFICERS AND THEIR POWERS.

§ 365. The electors of each ward shall elect one Supervisor and one Constable,*and in addition the electors of the twenty-fifth ward shall elect a justice of the peace for the term of four years, who shall have and execute in said ward the powers conferred by law upon justices of the peace in towns, but in civil actions and proceedings he shall have jurisdiction only when the defendant is a nonresident of the city at the time the action or proceeding is commenced, or when the plaintiff and defendant both reside in the twenty-fifth ward. The term of office of the Supervisor and Constable shall be two years. Constables shall have the same powers as constables of towns, except in criminal cases.

Thus amended by L. 1895, c. 805, Sec. 21.

*Superseded by L. 1898, c. 189. Section 1 of this act amended Section 385 of the Charter by increasing the number of justices of the peace for the city from two to three. Section 2 of the act abolished the office of justice of the peace for the twenty-fifth ward, but did not change the language of Section 365 of the Charter.

§ 366. This section which provided for the choice of inspectors of election is omitted because it has been superseded by L. 1896, c. 909, sec. 12, which vests in the Mayor the appointment of these officers.

§ 367. The Alderman and Supervisor of each ward shall, in their ward, possess the powers of town fence viewers.

§ 368. The supervisors shall have the same powers as supervisors of the towns of Erie County.

TITLE XV.

ELECTIONS.

§ 369. The term of all officers elected under this act shall commence on the first day of January after their election, except that the terms of officers elected to fill vacancies shall commence as soon as they have qualified, unless herein otherwise provided. All elective officers now in office shall continue to hold office until their terms will expire under the act hereby amended, as modified by section three of article twelve of the constitution of the state of New York. Successors to all elective officers shall be chosen at the municipal election held next preceding the expiration of their term of office.

Thus amended by L. 1895, c. 805, Sec. 22.

The amendment substituted the first day in place of the first Monday of January, and added all after the first sentence.

§ 370. The municipal and ward elections shall be held on the Tuesday succeeding the first Monday of November in each odd-numbered year.

Thus amended by L. 1895, c. 805, Sec. 23.

This section originally read: "The annual city and ward election shall be held on the same day with the state general election."

§ 371. The City Clerk shall publish in the official paper, and in three other daily newspapers of the city, one of which shall be printed in the German language, a notice of every election to be held under this act. The notice shall be published twice a week for three weeks, prior to the election, and shall specify the day on which the election is to be held, the time of opening and closing the polls, the officers to be elected, the boundaries of the several election districts, and the places of holding the polls therein.

§ 372. In each district for the election of officers under this act there shall be a ballot-box and other boxes required by the general election laws of the state. Upon the closing of the polls the inspectors shall forthwith, without adjournment, canvass the votes, and shall make and certify statements of the result in the manner required by the general election laws of the state. Separate returns as to city officers voted for, including *judges of the Superior Court of Buffalo, shall be filed by said inspectors in the office of the City Clerk on the day next succeeding the election.

*Superior Court abolished by Constitution of the State, adopted in 1894.

§ 373. On the second Monday after every annual election, the Board of Aldermen shall convene at its usual place of meeting at two o'clock in the afternoon, when the City Clerk shall lay before it the certificates of the inspectors of election filed with him, and a tabular statement of their results, and the Board of Aldermen shall forthwith canvass the returns, and determine therefrom and certify who received the largest number of votes and are elected to the several offices. The said certificates shall be made in duplicate, one of which shall be filed in the office of the clerk of Erie County, and the other shall be filed and recorded in the office of the City Clerk.

§ 374. If a vacancy exist or occur in any elective office in the city, or in any ward, except that of Mayor, Councilman, Alderman or Supervisor, it shall within ten days be filled by appointment by the Mayor, until and including the thirty-first day of December after the next general municipal election, at which election such vacancy shall be filled for the unexpired term. If a vacancy exist or occur in the office of Alderman or Supervisor, it shall be filled by the Common Council at a joint session of the boards composing the same by a viva voce vote. A joint session for such purpose shall be called by the Mayor. The term of the Alderman or Supervisor so elected to fill such vacancy shall continue until and including the thirty-first day of December after the next general municipal election, at which election an Alderman or Supervisor shall be elected to fill the unexpired term. An Alderman or Supervisor so elected by the Common Council to fill a vacancy shall be a resident of the ward in which the vacancy occurs, and the person so elected by the Common Council must be of the same political party as the Alderman or Supervisor whose place he is elected to fill. If a vacancy exist or occur in the office of Councilman, it shall be filled by election by the Board of Councilmen until and including the thirty-first day of December after the next general municipal election, at which election a Councilman shall be elected to fill the unexpired term. If a vacancy exist or occur in the office of Mayor, the president of the Board of Councilmen shall act as Mayor, and possess all the rights and powers, and perform all the duties of Mayor until and including the thirty-first day of December after the next general municipal election, at which election a Mayor shall be elected to fill the unexpired term. While acting as Mayor, the president of the Board of Councilmen shall not serve as a member of the Board of Councilmen.

Thus amended by L. 1895, c. 805, Sec. 24; L. 1902, c. 512, and L. 1905, c. 51.

A vacancy in the office of Councilman has always been temporarily filled by vote of the Board of Councilmen. A vacancy in the office of Commissioner of Public Works has always been temporarily filled by appointment by the Mayor. A vacancy in any other elective office (except Alderman) was temporarily filled, prior to 1902, by viva voce vote of the Common Council in joint session. These temporary elections or appointments originally held until the first Monday in January after the next election; the amendment of 1895 provided that they should hold until the next thirty-first day of December of an odd-numbered year. Prior to 1902, a special election in the ward was held to fill any vacancy in the office of Alderman.

The law of 1902 put the section into the present form, except for a provision that the President of the Common Council should act as Mayor in case of a vacancy in that office. The law of 1905 changed the succession from President of the Common Council to President of the Board of Councilmen.

§ 375. Elections held under this act shall be governed by the general election laws of the state, *where they are not inconsistent with the provisions of this act.

*Remainder of this section superseded by L. 1896, c. 909, the Election Law. The general law now prevails over Charter provisions.

TITLE XVI.

HARBOR MASTER.

§ 376. There shall be a Harbor Master, who shall be appointed by the Mayor, and hold his office for the term of two years, and shall have an office near the foot of Main Street, and shall be in daily attendance therein.

Thus amended by L. 1895, c. 805, Sec. 25.

This amendment changed the term of office from three years to two.

§ 377. The Harbor Master shall have jurisdiction over all navigable waters under the control of the city. He shall have authority to direct the location and change of station of every steamboat, sailing vessel, float or other craft therein, and shall enforce the ordinances of the city regulating the use of such waters. In case any steamboat, sailing vessel, float or other craft shall be so placed as to obstruct navigation, and the person in charge

thereof shall refuse to remove it as directed, the Harbor Master shall cause such removal to be made, and the expense shall be a lien on the steamboat, vessel, or float so removed, and may be recovered by the city of the owner by action.

§ 378. He shall enforce the ordinances relating to the navigable waters of the city. He shall report to the Corporation Counsel all violations of such ordinances, and all cases of disobedience to his lawful order, and the Corporation Counsel shall thereupon bring an action to enforce the fine or penalty prescribed for such violation or disobedience.

§ 379. The Harbor Master shall have the exclusive disposition and sale of the right and privilege to cut and remove all ice formed upon the waters under the jurisdiction of the city; and all moneys received by him therefor shall be paid to the City Treasurer, and a report thereof be made by him to the Common Council.

§ 380. Whenever any sunken vessel or wreck shall obstruct the navigation of any navigable water under the control of the city, the Harbor Master shall order the owner or person in charge of such sunken vessel or wreck, to remove the same at once; and, in case his order is not obeyed, he shall cause the removal to be made, and the expense thereof shall be a lien upon the vessel or wreck so removed, and may be recovered by the city, of the owner, by action.

§ 381. The Harbor Master may call upon the Board of Police for such aid to execute his orders as he may require, and the board shall furnish such assistance.

TITLE XVII.

POLICE JUSTICE AND JUSTICES.

§ 382. There shall be elected a Police Justice, who shall hold his office for the term of four years, and who

shall have and execute in the city all powers conferred by law upon justices of the peace of towns, in proceedings in criminal cases, and in the execution of the laws relating to the internal police of this state, and shall also have jurisdiction of the offenses designated by chapter four hundred and nine of the laws of eighteen hundred and eighty-six. He shall take the usual oath of office and file the same with the Clerk of the county of Erie. He shall hold in the city a court, which shall be called the police court, and shall have in respect to offenses committed in the city, all the powers and jurisdiction conferred by law upon courts of special sessions held out of the city and county of New York. It shall also have jurisdiction of the misdemeanors mentioned in this act.

All fines imposed by the Police Justice or by the police court shall be paid by the officer who shall receive them into the city treasury. The Police Justice shall make a monthly report to the Common Council of his doings, and of the fines received by him. Warrants issued in criminal cases, and in the execution of the laws relating to the internal police of this state, shall be returnable before the Police Justice, who shall proceed with the hearing. No person issuing such warrant shall receive any fee therefor. During the sickness, temporary absence, or other inability of the Police Justice to discharge his duties, the Mayor may perform his duties, or may appoint an elector of the city to perform them. Said Police Justice may be removed from office by the Supreme Court, at a general term, as prescribed by the Code of Criminal Procedure.

§ 383. The Police Justice shall be paid in monthly payments, an annual salary, to be fixed by ordinance, by the Common Council; and shall not receive any other fees or compensation for services as Police Justice.

§ 384. The Police Justice shall appoint a clerk and a deposition clerk, which appointments shall be in writing and filed with the Clerk of the county of Erie. The clerk

appointed under this act shall take the usual oath of office and file the same with the County Clerk, and shall hold office during the pleasure of the Police Justice. The clerk shall keep a complete and accurate record of all the proceedings in said court, and of all moneys received or fines imposed. He shall daily file with the Clerk of the county of Erie records of all convictions in said court, which records shall specifically state the crime and plea of each person convicted in said court. He shall prepare the monthly report to the Common Council prescribed in section three hundred and eighty-two of this act, and shall perform such other clerical duties in connection with the proceedings of said court as shall be prescribed by the Police Justice.

§ 384a. The Police Justice shall appoint a stenographer, which appointment shall be in writing, and filed with the Clerk of the county of Erie. The stenographer appointed under this act shall take the usual oath of office and file the same with the County Clerk, and shall be the official stenographer of the police court during the pleasure of the Police Justice. He shall also act as private clerk to the Police Justice. In an examination held in any criminal proceeding by the Police Justice, the testimony of each witness may, in the discretion of the said Police Justice, be taken as a deposition by the official stenographer of his court. Such minutes of the testimony when so taken, and when certified by the stenographer and Police Justice, shall, both with reference to such examination, and in all procedure in connection with such examination provided for by any section of the Code of Criminal Procedure not inconsistent herewith, be regarded as actually taken down in writing by such magistrate, and subscribed by the witness or witnesses at such examination. The salary of such stenographer shall be fixed by the Common Council, and shall not exceed twelve hundred dollars per year.

This section added by L. 1900, c. 466, thus amended by L. 1904, c. 555.

The amendment of 1904 increased the limit of the stenographer's salary from $900 to $1200.

§ 384b. PROBATION OFFICERS.—The Police Justice shall have authority to appoint or designate not more than ten discreet persons of good character to serve as probation officers during the pleasure of the Police Justice; said probation officers to receive no compensation from the public treasury. Whenever any child under or apparently under the age of sixteen years shall have been arrested, it shall be the duty of said probation officers to make such investigation as may be required by the court, to be present in court in order to represent the interests of the child; when the case is heard, to furnish to the Police Justice such information and assistance as he may require, and to take charge of any child before and after trial as may be directed by the court.

This section added by L. 1901, c. 627, thus amended by L. 1902, c. 549.

The amendment increased the authorized number of probation officers from five to ten.

§ 384c. Whenever any such child is found guilty or pleads guilty to the commission of any crime or misdemeanor before the Police Justice, the said Police Justice may in his discretion suspend sentence during the good behavior of the child so convicted. The child so convicted may be placed in the care of said probation officer for such time not to exceed three months, and upon such conditions as may seem proper. Such time may be extended one or more additional terms, not exceeding three months each, by the police justice in his discretion. Said probation officers shall have the power to bring the child so convicted before the Police Justice at any time during the probation for such disposition as may be just. When practicable, said child shall be placed with a probation officer of the same religious faith as that of the child's parents.

This section added by L. 1901, c. 627, thus amended by L. 1902, c. 549.

The act of 1901 authorized only one three months' period of probation, after which control over the child ceased. The amendment of 1902 authorized extensions of this period.

§ 384d. The Police Justice shall appoint an interpreter of the Italian and Polish languages, which appointment shall be in writing and filed with the Clerk of the county of Erie. The interpreter under this act shall take the usual oath of office and file the same with the County Clerk. He shall be the official interpreter for the said Italian and Polish languages in proceedings before said police court and justice during the pleasure of the Police Justice, and shall perform such other duties as shall be prescribed by said Police Justice. The salary of such interpreter shall be fixed by the Common Council of the city of Buffalo.

This section added by L. 1907, c. 651.

§ 385. There shall be three Justices of the Peace, elected by the electors of the city of Buffalo on the general city ticket as hereinafter provided. The terms of office of each shall be four years commencing on the first day of January next succeeding the election of each. The present Justices of the Peace, in said city, together with the Justice of the Peace elected in and for the twenty-fifth ward shall be the three justices herein provided for, and shall constitute a Board of Justices to the Police. This Board shall on or before the first day of the month next following the passage of this act, and thereafter on the first day of each year, or oftener, if necessary, apportion the station-houses of the city into three districts. As nearly as practicable such division shall be made in such manner that the amount of business to be transacted in the several districts shall be equal. Said Board shall assign from its members a Justice of Police to each one of said districts for the remainder of said month, and for each month thereafter, whose duty it shall be to attend the police station-houses in their respective districts at the hour prescribed by the Police Department, and examine into the case of every person

confined therein and make delivery. Such assignments shall be so arranged that each Justice shall attend a different district each month, and an equal number of times at each of the districts during the year. A Justice of the Peace shall be elected hereafter on the general city ticket at the municipal election preceding the first Monday in January in each year when the term of any Justice of the Peace herein provided for shall expire. Said Justices shall have power to try cases of drunkenness, vagrancy, and all other offenses against any of the laws of the state or the ordinances of the city of Buffalo, which may be tried summarily and without a jury, by a Justice of the Peace or a court of special sessions, committed by any person confined in the station-house, and to sentence every person found guilty of any such offense pursuant to the statute or ordinance creating such offense. In all other cases such Justices shall have and possess such powers and jurisdiction as are prescribed in this act. Each of said Justices shall execute a bond to the city of Buffalo, with sufficient sureties to be approved by the Mayor for the faithful performance of his duty, and for the accounting for and paying over all fines and penalties received by him as such Justice, in such sums as the Common Council shall require. All suits or actions brought on said bonds shall be in the name of the city of Buffalo. The salaries of the said Justices and of the Justice elected in and for the twenty-fifth ward, shall be fixed by the Common Council in joint session of the Boards thereof immediately after the passage of this act, and the same shall be uniform; such salaries shall be not less than fifteen hundred dollars nor exceed the sum of two thousand dollars per annum to be paid from the police fund as other salaries are now paid therefrom.

Said Justices may be removed or suspended from office for misconduct in office or neglect of duty, by the Supreme Court at any special term thereof held in Erie County. The grounds for such suspension or removal shall be stated, in the order therefor, and no removal

shall be made without reasonable notice to the Justice complained of, and an opportunity given him to be heard in his defense, as prescribed by the Code of Criminal Procedure. In case of the sickness, absence, or inability of any Justice of the Peace, another Justice of the Peace may perform his duties during such sickness, absence or inability, or the Mayor may temporarily appoint any elector of said city for that purpose, and the Justice of the Peace so temporarily appointed shall have all the powers, and perform all the duties of Justices under this act. All fines and penalties imposed by any or either of said Justices, collected by them or the keeper of the Erie County penitentiary, or otherwise, shall be paid over every week, by the person receiving the same, to the Treasurer of the city of Buffalo, and be by said Treasurer credited to the police fund of said city for the use and benefit thereof. The Police Board shall designate a suitable room at every station-house, in which said Justices of the Police shall hold court. While court is in session said room shall be deemed a court room for all purposes thereof. Such rooms shall be properly furnished, ventilated and heated. The Police Board shall provide said court room with all necessary legal blanks, stationery, and writing material as required by said Justices. The Police Commissioners shall detail a competent member of the police force on duty at such station-houses, whose duty it shall be to act as clerk of the court when a session thereof is being held, and keep such record of the proceedings as shall be required by said Justices. All the provisions of this section shall be made applicable to the Justices of the Police and Justices of the Peace in office at the time of the passage of this act.

Thus amended by L. 1898, c. 189, sec. 1.

This amendment increased the number of justices from two to three by adding the justice of the peace for the twenty-fifth ward to the number then serving, and providing for the election of all on a general ticket. Before the amendment the schedule of assignments was made by the Board of Police. The amendment also vested the power of removing justices in the Supreme Court, instead of the Board of Police, and added the provision requiring the Board to designate a suitable court room, with all that follows.

§ 386. If any person confined in a station-house is charged with criminal offense, the Justice shall enter the charges in a book to be kept for that purpose, and send such prisoner to the Police Justice for examination.

§ 386a. The Justices to the Police shall have jurisdiction, the first instance, to hear and determine charges of intoxication in a public place, in violation of section forty, chapter one hundred and twelve of the laws of eighteen hundred and ninety-six, and the laws amendatory thereof, and to sentence every person found guilty of this misdemeanor pursuant to the liquor tax law of this state.

This section added by L. 1899, c. 496.

§ 387. If any person therein is charged with a violation of any ordinance of the city, the Justice shall enter the charge in his book, and read it to the person charged, and enter in his book the plea of such person thereto. If such person denies the charge, the Justice, if he deems it expedient, or if the person charged requires it, shall:

1. If the violation charged is punishable by fine only, issue a warrant at the suit of the city against such person, returnable before the Municipal Court of Buffalo.

2. If the violation charged is punishable by imprisonment, issue his warrant and cause such person to be taken before the Police Justice. The Justice shall cause notice to be given to the Corporation Counsel.

§ 388. If the Justice shall not issue a warrant as above provided, he shall proceed summarily to hear, try, and determine the charge, and if he shall find such person to be guilty, he shall sentence him pursuant to ordinance.

§ 389. If the Justice shall sentence such a person to pay a fine, and if it is not paid immediately, he shall, by warrant, commit such person to the penitentiary, there to be confined for the term of one day for each and every dollar of such fine, not exceeding six months, unless it shall be sooner paid. If the Justice shall sentence such

person to imprisonment, he shall, by a warrant, commit such person accordingly.

§ 390. When the Justice shall commit any person he shall, on the same day, make and file with the Clerk of Erie County a record of the conviction in which it shall be sufficient to state the charge so specifically as to show a violation of the ordinance, the plea of the person charged, the fact of conviction, and the judgment.

TITLE XVIII.

PUBLIC GROUNDS, STREETS, AND WATERS.

§ 391. The city may lay out, enlarge and alter parks, public grounds, squares, streets, alleys, canals, basins, slips, or other public waters, and cause them to be surveyed, described and recorded in a book to be kept by the City Clerk.

§ 392. The grade of each street shall be established and described, and the description of such grade, and of all alterations thereof, shall be recorded by the City Clerk. No street shall be worked until the grade thereof is established and recorded.

§ 393. The streets shall be suitably divided into carriageways and sidewalks.

§ 394. The city may discontinue or contract a street or alley, or any part of it, upon the written application of two thirds in number of the owners of the lands fronting on the street or alley, the lineal front of whose lands shall constitute two thirds of the lineal front of all the lands on the street or alley. A continuous street or alley, portions of which bear different names is to be considered as a single street or alley.

§ 395. The city shall remove all encroachments upon projections over, and obstructions on the public grounds,

streets, alleys and wharves, and abate all nuisances; and cause the expense to be assessed upon the lands upon, or in front of which such encroachments, projection, obstruction or nuisance was, or upon the parcels of land benefited by such removal.

§ 396. It may cause streets and alleys to be opened, leveled, repaired, cleaned, and watered; crosswalks, culverts, sewers, drains, receivers, aqueducts, wharves, piers, canals, slips, and basins to be constructed, enlarged, repaired and cleaned.

§ 397. It may cause any street or alley to be graded or regraded, graveled or regraveled, macadamized or remacadamized, or paved or repaved. When it is proposed to pave or repave any street or alley, plans and quantities shall be prepared for doing the same with each kind of pavement, for the laying of which specifications have been filed by the Commissioner of Public Works. The Commissioner of Public Works shall advertise for bids for doing the same in accordance with such plans, specifications, and quantities, and report the same to the Common Council. After receiving such report, the Common Council shall determine which kind of pavement shall be used, and in case a majority petition shall not have been presented, for the kind so determined upon, shall pass a resolution of intention to order the street paved with any kind of pavement it may select. The petition for the paving or repaving of any street or alley may specify generally the material to be used in such work, and such petition shall be regarded as an application for the use of any material of the kind designated in the petition for which specifications have been filed with the Commissioner of Public Works or the petition may designate particularly any kind of pavement for which specifications have been filed as aforesaid, which the petitioner desires shall be used. The specifications may provide that the persons submitting bids or proposals shall agree to enter into contract to do the

work, and to keep and maintain the same in good repair for a certain definite period, and a contract may be entered into in accordance therewith, and a local assessment made to defray the expense thereof, anything in this act to the contrary notwithstanding.

Thus amended by L. 1895, c. 805, Sec. 26; L. 1900, c. 707, Sec. 3, and L. 1901, c. 228, Sec. 12.

This section originally contained a limit of time within which the Common Council should determine the kind of pavement to be used. The act of 1895 changed this limit, and the act of 1900 struck it out altogether. The latter act also added the sentence next to the last, authorizing a petition for a particular kind of pavement. The act of 1901 specified "Commissioner" instead of "Board" of Public Works.

§ 398. When the expense of the work or improvement mentioned in the last section will exceed the sum of five hundred dollars, it shall not be ordered except:

1. Upon the vote of three fourths of all the members elected to the Common Council, and after notice of the intention to order it shall have been published three times a week for two weeks, in the official paper of the city; or,

2. Unless it shall be applied for by a majority of the resident owners of the lands fronting on the street or alley, representing at least two fifths of all the feet front of the lands on the street or alley, in and along which such improvement is to be made, or if such improvement is intended to be made in and along only part of such street or alley, then by a majority of such resident owners of the lands, representing at least two fifths of all the lands fronting on the part of such street or alley as to which such improvement is to be made. The application shall be referred to the Board of Assessors, to ascertain whether such majority, and the owners of two fifths of the lands, applied for the improvement. Unless the Board of Assessors shall certify that such application is made by a majority of such owners, and that they own at least two fifths of the land as herein provided, the improvement shall not be ordered.

§ 399. The Board of Assessors shall return the application to the Common Council, with its certificate thereon as to the facts required, which certificate shall be conclusive as to the facts. The Board of Assessors shall also certify whether, in its judgment, any of the lands have been divided for the purpose of affecting such majority. Whenever the Common Council is authorized or required by law or ordinance to order any work or take any action on any majority or other petition, such petition shall be referred to the Board of Assessors to ascertain whether it is the necessary majority petition or is signed by the necessary persons or sufficient thereof, or represents a sufficient proportion of the property as the case may be, and the Board shall return the application to the Common Council with its certificate thereon as to the facts required,which certificate shall be conclusive as to the facts. No person signing a petition shall within three months after such petition is presented to the Common Council be considered or counted on any other petition for the same work or improvement, or any part thereof, or on a remonstrance against the same, without the consent of the Common Council, nor shall any person be allowed to withdraw his name from any petition, or add his name thereto, during the same period, without the like consent. If such consent is given in either or any of the cases aforesaid, the petition, if theretofore returned by the Board of Assessors, shall be again referred to the Board, and the Assessors shall again examine the petition, and return the same to the Common Council with its certificate as to the facts required, which certificate shall be conclusive as to the facts.

Thus amended by L. 1895, c. 805, Sec. 27, and L. 1900, c. 707, Sec. 4.

The act of 1895 added the third sentence, requiring reference of all petitions to the Assessors. The act of 1900 struck out a provision that no certificate should be made by the Assessors until five days after reference of the petition to them. This act also substituted the last two sentences in place of the former provision that "No person signing a petition shall be considered or counted

on a petition for a different kind of pavement for the same improvement, or on a remonstrance against a petition signed by him within three months thereafter."

§ 400. The expense of all the work or improvements mentioned in sections three hundred and ninety-six and three hundred and ninety-seven of this act, except the cleaning of streets and alleys, the cleaning and repairing of sewers and receivers, the repairing of the accepted streets, and the construction and repair of crosswalks, shall be defrayed by local assessment, except that in repaving or resurfacing an accepted street, two thirds of the expense thereof shall be raised by local assessment, and the remaining one third thereof shall be paid out of the general fund, and where a street, or any part thereof shall be ordered cleaned, under section four hundred and eight of this act, the expense thereof shall also be defrayed by local assessments.

Thus amended by L. 1894, c. 289, Sec. 4, and L. 1903, c. 392.

The act of 1894 added the construction and repair of crosswalks and special cleaning under Section 408 to the list of work to be paid for by local assessment. The amendment of 1903 placed one-third of the cost of repaving on the general fund; the whole cost was previously paid by local assessment.

§ 401. The city may construct, maintain,and repair a city hall, markets, and other public buildings, bridges, and reservoirs, wells and fountains, and places for supplying the public with water, and docks; maintain, improve and embellish parks, squares, open spaces, and other public grounds, and defray the expense, or any part thereof, out of the general fund or by local assessment; but all bridges shall be constructed, maintained and repaired out of the general fund. Hereafter no public well shall be ordered in a water district. The city may rent or lease docks, or rent or lease the site thereof for such term of years as may be agreed upon.

Thus amended by L. 1895, c. 805, Sec. 28.

The amendment added the last sentence.

§ 402. The city shall have power to ascertain, establish, and settle the boundaries of all public waters, streets, alleys, parks, squares, open spaces, and other public grounds, and to direct the City Clerk to record the same. Whenever any person shall propose to dedicate a new street, or part of a new street, he shall submit the plan thereof to the Commissioner of Public Works for his approval, before the same is presented to the Common Council. The Commissioner of Public Works shall report the plan, with his opinion, to the Common Council before the proposed street, or part of a street, shall be accepted.

Thus amended by L. 1901, c. 228, Sec. 13.

The amendment only specified "Commissioner," instead of "Board" of Public Works.

§ 403. The city shall cause the streets, alleys, parks, squares, open spaces, and other public grounds, canals, slips, wharves, or docks in the city, or any part thereof, which have been laid out, but not recorded or sufficiently described or which have been used for twenty years but not recorded, to be ascertained, described, and recorded in a book to be kept by the City Clerk.

§ 404. Buffalo River, within the city, is a public highway, but any bridge heretofore built, and now existing over the same, and any swing or draw bridge hereafter built over the same, within the city, by authority of the Common Council, is a lawful structure.

Thus amended by L. 1895, c. 805, Sec. 30.

L. 1870, c. 519, Title IX, Sec. 15, from which the above is derived, read as follows: "Buffalo River, within the city, is a public highway." L. 1884, c. 201, added the words "and any swing or draw bridge heretofore or hereafter built over the same, within the city, by authority of the Common Council of said City, is a lawful structure." The changes made by the present Charter appear from comparison of the section as now printed, with the quotations just given. As enacted in 1891 this section had a clause at the end that "nothing herein contained shall be construed to repeal or in any manner affect Chapter 345 of the Laws of 1886, or any act amendatory thereof." This reference to L. 1886, c. 345 is an error, as that act has nothing to do with the Buffalo Charter. Probably L. 1888, c. 345, the Grade Crossing Act, was intended. The amendment of 1895 repealed this last clause, putting the section into its present form.

§ 405. The city may widen, straighten, enlarge, clear from obstruction, dredge, deepen, embank, and dyke the Buffalo River, Cazenovia Creek, the Black Rock Harbor, the lake, the basins, slips, and waters in the city, and may put and maintain in navigable condition all of said waters in the city except Cazenovia Creek, and may construct new drainage channels to abate floods, and prevent the overflow of the waters of the said Buffalo River and Cazenovia Creek, or either of them. The expense or any part of the expense of any work or improvement mentioned in this section, may be paid out of the general fund or by local assessments as the Common Council shall determine, provided, however, that not more than one third of the expense of doing any of the work or making any of the foregoing improvements, when done or made for the purpose of abating floods, and preventing the overflow of the waters of the Buffalo River and Cazenovia Creek, or either of them, shall be paid out of the general fund, and the remainder of such expense shall be defrayed by local assessment. Nothing in this act shall be construed to allow the city of Buffalo to have, use, or exercise any control over the canals, basins, harbors, slips, or other works belonging to the state within the limits of the city.

Thus amended by L. 1900, c. 571, Sec. 1.

The amendment added the mention of Cazenovia Creek, the power to embank and dyke, and the power to construct new drainage channels to abate floods with the limitation of cost to be borne by the general fund.

§ 406. When the city shall alter the recorded grade of any street or alley, the owner of any house or lot fronting thereon may, within one year thereafter, claim damages by reason of such alteration. Upon presentation of such claim, the Board of Aldermen shall refer it to the Board of Assessors. The board shall hear the claimant, and award such damages as shall be just. In case the board shall award damages to any person, it shall assess the same upon the real estate benefited by the

alteration. The amount so assessed shall, when collected, be paid to such claimant.

§ 407. No work or improvement specified in this act, except those mentioned in section three hundred and ninety-seven, the expense of which shall be estimated to exceed five hundred dollars, shall be ordered, unless by the vote of two thirds of all the members elected to each Board composing the Common Council, after publication in six successive numbers of the official paper of the city, of the intention to order such work or improvement.

Thus amended by L. 1892, c. 246.

Before this amendment publication of notice was required in one other daily paper in addition to the official paper.

§ 408. The city shall not enter into a contract with any person for the doing or making of any work or improvement at a price exceeding five hundred dollars, until it shall have caused a notice to be published in the official paper and two other daily papers of the city twice a week for two weeks, inviting sealed proposals to do the work or make improvement, pursuant to the plan, specifications, or other proper description of the work or improvement to be specified in the notice, and shall not enter into a contract for the doing or making of any such work or improvement for a price exceeding five hundred dollars, until the assessment therefor has been confirmed, and has been delivered to the Treasurer. Except that the Common Council may order any street cleaned, sprinkled, or watered in addition to such work already contracted for by the city, and the city may enter into a contract therefor upon a petition of the majority of the resident owners upon said street, without publishing such notice, and before the assessment therefor has been confirmed. The city shall include in the plans, specifications and quantities of the improvement of any street by paving or otherwise, which shall be hereafter ordered, the specifications and quantities of work and material neces-

sary to be done and furnished for the purpose of making connections with the pavement or grade in all streets crossing the one in which such improvement is to be made, and for connecting the termination of such improvement with the work and grade on such street. The expense of the labor and materials of the connections shall be included in the assessment ordered to defray the expense of the improvement, and shall be assessed upon the property benefited thereby.

§ 409. In case an assessment shall prove to be insufficient to defray the expense of the work or improvement for which it was made, the Common Council shall determine the amount of such deficiency, and may direct the Board of Assessors to apportion the same ratably upon the assessments in the assessment-roll. The Board shall make an assessment-roll accordingly.

§ 410. All work provided for in this title, after having been ordered by the Common Council, shall be executed under the direction of the Commissioner of Public Works.

Thus amended by L. 1894, c. 289, Sec. 5, and L. 1901, c. 228, Sec. 14.

The amendment of 1894 struck out provisions for requiring property owners to lay sidewalks. This subject is since covered by Section 288. The amendment of 1901 specifies "Commissioner" instead of "Board" of Public Works.

TITLE XIX.

LIGHT.

§ 411. The city may light the streets or contract for the lighting of them, and may purchase, construct, maintain, and regulate works to provide the city and its inhabitants with light.

§ 412. The Common Council shall prescribe the boundaries of the lamp district, and may, from time to time, and after the publication in five successive numbers

of the official paper of the intention so to do, alter or enlarge the same. No such extension shall be made except upon a petition of a majority of persons owning property and residing within the limits of the proposed extension, or in the absence of such petition, by a three-fourths vote of each Board of the Common Council.

§ 413. When the lamp district shall be extended, the expense of the extension, including the cost of the pipes, lamp-posts, and lamps, shall be paid out of the general fund of the city.

Thus amended by L. 1904, c. 67, Sec. 1.

Before this amendment the cost was raised by assessment.

§ 414. The Common Council shall cause to be raised yearly a sufficient amount of money to defray the expense of lighting and maintaining the lamp district, and keeping the pipes, lamp-posts, lamps, and other fixtures in repair, and in extending the lamp district, and such expense shall be included in the general tax, and paid out of the general fund of the city.

Thus amended by L. 1904, c. 67, Sec. 2.

Before this amendment one half of the cost of lighting was set out on the bills for the general city tax as a special item under the heading of "lamp tax."

§ 415. The streets or parts of streets of the city which are or may hereafter be lighted by electric light, shall be deemed a part of the lamp district, and the expense of such electric lighting shall be included in the amount raised to defray the expense of lighting and maintaining the lamp district.

§ 416. The city may contract with any person or corporation to furnish the materials and labor necessary to be used and done in making all extensions of the lamp district, and for lighting the public buildings and the streets of the city, and keeping the lamps in repair, for such time as the Common Council shall designate, not exceeding five years for any one contract. Sections four hundred and seven and four hundred and eight of this act

shall not apply to any such contract. The city may purchase, from time to time, and keep on hand such number of lamp-posts and lamps as the Common Council may deem necessary for replacing lamps and posts, which shall become unfit for use, and supplying all extensions of the lamp district therewith, and pay for the same out of the general fund, and shall furnish such posts and lamps for such extensions at the price which the city shall have paid for the same. When lamps and posts are not in use they may be removed from the street and stored or used elsewhere, and the gas-light company shall, on being notified, protect its pipes at its own expense, and if they should be again needed at the place from where they were so removed, the same or other of equal value shall be returned without expense to the local property owners. All the work provided for in this title, after having been ordered by the Common Council, shall be executed under the direction of the Commissioner of Public Works.

Thus amended by L. 1895, c. 805, Sec. 31, and L. 1901, c. 228, Sec. 15.

The amendment of 1895 added the sentence next to the last, providing for the removal and storage of unused lamps and posts. The amendment of 1901 specified "Commissioner" instead of "Board" of Public Works.

TITLE XX.

OF EMINENT DOMAIN.

§ 417a. *The city shall have power to take lands for public buildings, for parks, public grounds, squares, streets, alleys, fountains, canals, basins, slips, and other public waters, docks, and for any other corporate purpose or object, and to take proceedings to perfect its title where title has been acquired or attempted to be acquired, and has been found to be invalid or defective, and the latter proceeding may be joined with any new proceeding for acquiring lands for a similar purpose.

Thus amended by L. 1895, c. 805, Sec. 32, and L. 1900, c. 571, sec. 2.

*The amendment of 1895 added the power to take proceedings to perfect title. The law of 1900 made no change, except in the number of the section. Instead of leaving this section alone and designating the new paragraphs below as Sections 417a, etc., this law provided that Section 417 "is amended to read as follows," and reënacted the above section, under the heading of 417a, adding new sections under designations of 417b, etc.

§ 417b. Whenever any work or improvement authorized by section four hundred and five of this act shall be undertaken, the city may take for the purposes thereof, as provided in this act, lands, held or used for public purposes by any corporation having the power of eminent domain, or otherwise held or used for public purposes; but in such case only such interest or easement shall be taken as may be necessary for carrying out such work or improvement, and to that extent, such taking is hereby authorized.

This section added by L. 1900, c. 571, Sec. 2.

§ 417c. Any number of separate parcels of land owned by the same or different persons or corporations, or in which the same or different persons or corporations have an interest whether contiguous or not, may be included in one and the same proceeding under this title.

This section added by L. 1900, c. 571, Sec. 2.

§ 417d. If at any time a proceeding to take lands as in this title provided shall be found defective or insufficient, the city may proceed anew to take such lands in the same manner as if no prior proceeding had been begun, and if in possession, the city may continue in possession of such lands until the final conclusion of such new proceeding, and the court may stay all actions or proceedings against the city on account thereof.

This section added by L. 1900, c. 571, Sec. 2.

§ 418. When it shall be intended to take any lands for any of said purposes or objects, the Board of Aldermen shall require the Board of Assessors to ascertain and

certify the district that will be benefited thereby, and will be assessed therefor, and the Common Council shall not adopt any resolution declaring its intention to take such lands until the report of the Assessors has been received and confirmed. The Common Council shall thereupon, by resolution, declare such intent, and describe the lands intended to be taken, and shall at the same time declare whether the expense of the same shall be paid by general or local fund, or in part by a local fund, and, if wholly or partly by a local fund, define the district that will be assessed therefor. Upon such resolution becoming of force, the City Clerk shall cause the same to be published in the official paper daily for two weeks.

§ 419. Within three months after the expiration of the said publication, the Common Council may declare, by resolution, to be adopted by a vote of two thirds of the members of each Board, that the city has determined to take such lands for the purpose specified in such resolution.

§ 420. Upon such resolution becoming of force, the Corporation Counsel shall give notice that the city has determined to take the lands therein described for the purpose stated, and that on a specified day he will apply to a court, to be held on that day, in the city, naming the court of record to which such application is to be made, for the appointment of three commissioners to ascertain the just compensation to be made for such lands, by publishing such notice daily for two weeks in the official paper, by leaving a copy thereof at each inhabited building on such lands with a person of full age, and by serving a copy thereof personally on each person who, by the records of the Erie County Clerk's office, appears to be the owner or mortgagee of such lands or any part of them, or by depositing it in the post office in the city, with the postage prepaid, addressed to him at Buffalo, at least ten days before the time when the application is to be made. If any such owner or mortgagee

has an agent registered as provided in this act, the notice, when not personally served on such owner or mortgagee, shall be served on such agent personally, or by depositing it in the post office addressed to him.

§ 421. At the opening of such court on the day designated in the notice, or as soon thereafter as he can be heard, the Corporation Counsel shall, upon a copy of said resolutions, certified by the City Clerk, and proof of the giving of said notices as aforesaid, apply to such court to appoint such commissioners. Such court shall hear such application, and may appoint three commissioners to ascertain the just compensation to be made for such lands.

§ 422. If an attorney-at-law shall appear for any person in such proceedings, and serve notice thereof upon the Corporation Counsel, he shall be entitled to notice of all subsequent proceedings. The Corporation Counsel shall cause the order appointing the commissioners, together with a notice of the pendency of the proceeding directed to all persons upon whom service has been made, as provided in section four hundred and twenty of this act, to be filed in the office of the Clerk of the county of Erie, who shall record the same in like manner as notice of pendency in an action to foreclose a mortgage. When any proceeding of appraisal has been commenced no change of ownership by voluntary conveyance or transfer of the real estate or any interest therein shall in any manner affect such proceedings, but the same may be carried on and perfected as if no such conveyance or transfer had been made. In case any such proceedings shall be at any time discontinued, the court in which the same shall have originated may, upon the application of any person interested, with or without notice to the persons who have appeared therein, as it shall determine, make an order directing the cancellation of such notice of pendency of such proceeding, which shall be filed in the office of the Clerk of the county of Erie, and there-

upon the Clerk of said county shall cancel and discharge of record such notice of pendency.

§ 423. If any commissioner shall die or be disqualified or excused by the court from serving, the court, upon application of the Corporation Counsel, may appoint another in his place. In all cases of appraisal under this act, when the mode or manner of conducting all or any part of the proceedings for the appraisal and proceedings consequent thereon are not expressly provided for by this act, the court before which such proceedings may be pending shall have the power to make all necessary orders and give all the proper directions to carry into effect the object and intent of this act. The practice in such cases shall conform, as near as may be, to the ordinary practice in such court. The court may, from time to time, upon the application of the Corporation Counsel, with or without notice, as the court may direct, extend the commissioners' time to make and file their report until such time as the court may fix, and such order shall take effect upon the filing thereof. The proceedings of the city in exercising the right of eminent domain shall not be enjoined, restrained or interfered with by any order or mandate of any court or judge.

§ 424. The commissioners, before they enter upon their duties, shall take and subscribe an oath that they will faithfully perform their duties, and will ascertain and report the just compensation to be made for the lands. Any of them may issue subpœnas and administer oaths to witnesses. A majority of them may adjourn the proceedings before them from time to time in their discretion. They shall appoint a time and place for the hearing. They shall view the lands, and hear all legal evidence offered by the city or any person interested in the lands. They shall ascertain the just compensation to be made to the owners of, and to the persons interested in the lands; and they shall, within sixty days after their appointment, make a report to the court which ap-

pointed them, by filing the same, together with their oath, with the clerk of such court. The report shall be signed by all of the commissioners.

§ 425. If the commissioners shall not be able to agree, they shall certify the fact to the court, which may, upon the application of the Corporation Counsel, appoint new commissioners.

§ 426. Upon the filing of the report of the commissioners the Corporation Counsel shall communicate the fact of such filing, stating the whole amount of the awards to the Common Council. The Common Council may, at or after the second regular meeting thereafter, by resolution, direct that the Corporation Counsel shall apply to the court for the confirmation of said report or for the discontinuance or abandonment of said proceeding, and the Corporation Counsel shall comply with such resolution. Such action of the Common Council shall be taken within three months from the time when the filing of such report shall have been communicated to it by the Corporation Counsel. In case the Corporation Counsel shall apply for the discontinuance or abandonment of such proceeding, the court shall ascertain and determine the reasonable and necessary expenses and disbursements incurred by each person who has appeared in said proceeding, either in person or by attorney, and the same shall be paid to such persons by the city. The city shall pay all taxes and assessments which shall be levied or assessed after the confirmation of the report upon any of the property taken as herein prescribed. Upon the coming in of the report of the commissioners the court may confirm the report or annul it, or refer it back to the commissioners, or to new commissioners to be appointed by it. If the court shall confirm the report of the commissioners, the order of confirmation shall recite the proceedings, and describe the lands taken, and shall be conclusive upon the city, and upon the owners of and all persons interested in the lands.

§ 427. The clerk of the court shall make up a roll of such proceedings, by attaching together all the reports therein filed in his office, and a copy of all orders made therein by the court.

§ 428. The order of confirmation shall be recorded in the office of the Clerk of Erie County, and in the office of the City Clerk, and such record, or a copy thereof, certified by the clerk, shall be evidence of the facts therein contained.

§ 429. The commissioners shall be paid by the city six dollars per day as compensation for their services upon filing their report, or their certificate of disagreement, and the court may, in addition, allow to the commissioner who drew up the report a reasonable compensation, not exceeding the sum of fifty dollars.

§ 430. Upon the confirmation of the report of the commissioners, the Common Council shall ascertain the amount of money required to pay the compensation awarded and the cost of the proceedings. The amount which is to be raised by general tax shall be included in and raised in the general tax next thereafter to be levied. The amount which is to be raised by local assessment it shall cause to be assessed upon the real estate benefited, in accordance with the declaration of intention.

§ 431. Within one year after the confirmation of the report of the commissioners, the city shall make to the persons to whom compensation shall have been awarded by the commissioners, the compensation awarded to them respectively.

§ 432. In case any such person shall refuse the same, or be unknown, or incapacitated, or the right to the compensation be disputed, or be doubtful, the city may pay the amount of such compensation into the court in which the proceedings to take the lands were had, with a statement of the facts and circumstances of the case.

§ 433. The court shall have power to order the investment of such money, to ascertain who is entitled to it, or any and what part of it, and to order its payment accordingly.

§ 434. Upon making to the respective persons the compensation awarded to them, or paying the same into court as aforesaid, the fee of the lands taken shall vest in the city.

§ 435. If the amount necessary to make such compensation has not been realized by the city, it may borrow the same temporarily.

§ 436. When any lands of any person to whom compensation is awarded for an interest in lands taken by the city, or of any person acquiring title under such person subsequent to the filing of the notice of pendency herein provided for, shall be assessed to pay such compensation, the court in which the proceedings were had may, upon the confirmation of the assessment, and upon the application of such person, or the city, set off the amount of such assessment and the amount of such award, and certify the balance.

§ 437. When any real estate, subject to any lease or other agreement, shall be taken by the city under this title, all the covenants and stipulations contained in such lease or agreement shall, upon the expiration of one year from the confirmation of the commissioners' report, determine and be discharged; and when a part only of any real estate shall be so taken, the said covenants and stipulations shall be so discharged only as to the part taken; and the court in which the proceeding was had may, on application of any party in interest to such lease or agreement, and after a notice in writing of eight days to the other parties interested, appoint three commissioners to determine the rents, payments, and conditions which shall be thereafter paid and performed under such lease or agreement, in respect to the residue of such real

estate; and the report of the said commissioners on being confirmed by the court, shall be binding and conclusive on all persons interested in such real estate.

§ 438. The city may take in fee for public streets, alleys, and squares, the lands situate within the boundaries of any of the public streets, alleys, and squares in said city, which have been or shall have been used as public streets, alleys, or squares for more than ten years, and for that purpose may include in one proceeding any number of streets and alleys, or parks, squares, or public grounds.

§ 439. The proceedings to take lands under the preceding section shall be pursuant to this title, except that no other service of notice required by section four hundred and twenty, shall be necessary than the publication thereof; the lands situated within the bounds of any street or alley, or any part thereof, or of any number of streets, may be included in one proceeding, but nothing in this or the preceding section contained shall authorize said city to divest any existing right to lay down or maintain any pipes or railroads and appurtenances in, upon, or across said streets or alleys.

§ 440. If for any reason the city shall have failed to appropriate any land required by it for public use, or to appropriate any part thereof to such use, or shall have abandoned such use, the Common Council may authorize the sale, release, and conveyance, under the hand of the Mayor and the corporate seal of said city, of any of such lands, or of any part thereof, after the parcel sought to be sold shall have been appraised, as hereinafter provided, upon payment of the amount at which the interests of the city in said lands shall have been appraised.

§ 441. Whenever it shall be represented to the Common Council that lands designated in the foregoing section have not been appropriated for the purposes for which they were acquired, and that the same can be

sold, the Common Council may, by resolution, direct the interest of the city in such land to be appraised in the same manner as prescribed in the general laws of the state for the condemnation of property, which proceeding may be conducted by any party desiring to acquire title to any such lands at his own expense, and the report of the appraisers appointed by the Supreme Court for the purpose of fixing the value of the interest of the city in said premises shall be filed in the office of the Clerk of Erie County, and the sum found by said appraisers as the value of the interest of the city in the premises appraised shall be the amount of the compensation to be paid for the release and conveyance of said land by the party making application for such appraisal.

§ 442. Upon the application for the appointment of commissioners to appraise the interest of the city as provided in the foregoing section, the petition shall contain a particular description of the land sought to be appraised.

§ 443. The Common Council may, by resolution, direct the sale of any land acquired by the city for public use, and which it has failed to appropriate or ceased to use for the purpose of such use, at public auction to the highest bidder. Notice of the time and place of such sale, together with a short description of the property, shall be published twice a week for three weeks in the official paper of the city, and no appraisal thereof shall be made or deemed necessary in cases of sale under this section, unless an application has been made as provided in section four hundred and forty-one, before the passage of a resolution of the Common Council directing the sale of premises under this section.

§ 444. The provisions of this act shall not be so construed as in any manner to affect or apply to the land taken by the city of Buffalo, or the Dodge farm, so called, for the purposes of a reservoir.

§ 445. In cases, however, where assessments have been offset as against awards for the value of the property taken, the Common Council may authorize the release and conveyance by deed to be executed by the Mayor, and under the seal of the city, of the interest of the city in such lands, or parts thereof, to the parties interested therein who are equitably entitled to such conveyance, upon payment by them to the city of the moneys expended by the city in the purchase or the taking of said lands or ratably in proportion to such parts thereof with interest thereon, from the time of such expenditure, or upon such other terms and conditions as the Common Council shall deem best for the interests of the city. In case the city of Buffalo shall at any time abandon the public use of any lands appropriated by it for public use, or shall be about to abandon such use the Common Council by not less than a two-third vote may authorize the conveyance under the hand of the Mayor, and the corporate seal of said city, of any such lands or any part thereof so abandoned or about to be abandoned, in exchange for other lands of substantially equal value required by said city for a like public use.

Thus amended by L. 1901, c. 199.

The amendment added the last sentence, giving the City power to exchange lands.

TITLE XXI.

OFFICIAL PRINTING.

§ 446. On or before the first day of November in each year the heads of the several departments shall prepare and deliver to the City Clerk a statement in detail of all the printing, with the proper blank forms and blank books that will be required in the respective departments for the ensuing year. The City Clerk shall thereupon prepare specifications, showing the amount and kind of official printing required by the city for the use of all its

officers and departments. Such specifications shall not include any matter which by law is to be published in the official paper, nor the minutes of the proceedings of the Common Council.

Thus amended by L. 1907, c. 461, Sec. 1.

This amendment changed the date in the first line from December to November.

§ 447. The City Clerk shall thereupon cause a notice to be published in five successive numbers, Sundays excepted, of the official paper, and of two other daily papers of the city, that sealed proposals will be received by him until the third Monday of December, for all the printing and binding mentioned in the specifications, as prescribed in the preceding section. The specifications shall not be published in the notice, but shall remain in the City Clerk's office for examination. The Corporation Counsel shall prepare blank forms of proposals, which shall be printed and furnished to those desiring to bid, and a copy of the specifications shall be attached to the proposals when delivered to the City Clerk and form a part thereof.

§ 448. On the third Monday of December, at ten o'clock in the forenoon, the Mayor, Comptroller, and Treasurer, or any two of them, shall meet at the Mayor's office, and the City Clerk shall then deliver to them the sealed proposals received by him, and they shall publicly open the same. Subject to the following provisions of this section, they shall award the contract for the proposed printing and binding to the lowest bidder or bidders, who will furnish security satisfactory to them for the proper performance of the contract so awarded according to the specifications accompanying the proposals. Provided, however, that said Mayor, Comptroller, and Treasurer, or any two of them, shall have the right to reject any or all bids, and to award the contract or contracts to the lowest bidder or bidders by items. In case all or any bids are rejected, the said Mayor, Comptroller, and Treasurer, or any two of them, may direct the City

Clerk to advertise anew for the whole or any part of said printing or binding, as may be necessary, and it shall be his duty thereupon to cause a notice to be published as provided in section four hundred and forty-seven of this act, except that sealed proposals offered under any advertisement subsequent to that provided for by section four hundred and forty-seven, shall be opened by the Mayor, Comptroller, and Treasurer, or any two of them, in the office of the Mayor, at ten o'clock in the forenoon of the day specified in the notice, which day shall be not less than four nor more than five weeks from the first publication of said notice. Pending the awarding of any contract or contracts pursuant to this section, said Mayor, Comptroller, and Treasurer, or any two of them, may make such provision as they shall deem best for the official printing and binding until the contract or contracts shall be duly awarded for the year. They shall require security satisfactory to them for the proper performance of any and all contracts so awarded. In advertising for bids the City Clerk shall provide that any bidder receiving a contract shall agree to do all the printing of the class or classes or items for which the proposals of said bidder shall be accepted, and of any kind for which no items have been furnished, which the city may require during the year, whether included in the specifications inviting proposals or not, at the same rates and upon the same terms as shall be fixed in the contract. No claim for city printing shall be audited or paid unless the work and the materials thereof shall have been done or furnished as herein provided.

Thus amended by L. 1907, c. 461, Sec. 2.

This amendment gave the power to reject bids or award the contract by items, and added the procedure to be followed in such event.

§ 449. The City Clerk, under the direction of the Common Council, prior to the fifteenth day of December in each year, shall give notice to the publishers of the daily papers published in the English language in the city

that sealed proposals will be received by the Common Council at its next session after the giving of such notice, for publishing all matters required by law or the ordinances to be published in the official paper, and the printing and binding of the minutes of the proceedings of the Common Council for the ensuing year, showing the number of copies and the style of printing and binding required.

§ 450. The Common Council shall award the contract to the lowest responsible bidder, and the paper in which publication is made shall be designated the official paper. The compensation paid for such publication shall not exceed the rates allowed by law, at any time for the publication of legal notices. When any publication shall be commenced in the official paper, the publication shall be completed by it with the like effect as if it were the official paper.

TITLE XXII.

MUNICIPAL COURT.

§ 451. The court of civil jurisdiction known at the time of the passage of this act as the Municipal Court of Buffalo, as heretofore created and established, is continued, with the jurisdiction and powers hereinafter provided.

§ 452. There shall be two judges of the Municipal Court, who shall be elected and hold their offices for the term of six years.

§ 453. The judges in office at the time this act takes effect shall serve out the terms for which they were respectively elected. At the annual election next preceding the close of each of said terms, and every six years thereafter a judge shall be elected to serve six years.

§ 454. No person shall be eligible to the office of judge of said court unless he shall be a resident elector of the city of Buffalo, and be a counselor of the Supreme Court of the state of New York.

§ 455. It shall be the duty of each judge to hold a court in and for the city of Buffalo, to be called the Municipal Court of Buffalo. Each of said judges may hold a separate court at the same time. The court shall be open for business each day, Sundays and legal holidays excepted, at nine o'clock in the forenoon, and continue open during seasonable hours for the transaction of business. During the sickness or other inability of the judges, or either of them, to discharge their or his duties, the Mayor may appoint a person or persons of the city qualified as provided by section four hundred and fifty-four of said act to perform them.

Thus amended by L. 1893, c. 245, Sec. 1; L. 1894, c. 691, Sec. 1.

§ 456. The court shall have and possess, in civil actions and proceedings, the same powers and jurisdiction as heretofore possessed and exercised by Justices of the Peace in the city, except as herein provided in civil actions and proceedings, and the additional powers and jurisdiction hereby conferred as follows:

1. In all civil actions and proceedings cognizable by law in the justices' court of towns.

2. In actions arising on contracts for the recovery of money only, if the sum claimed does not exceed five hundred dollars; and also in actions for breach of contract, where the damages claimed do not exceed five hundred dollars.

3. In a matter of account when the sum total of the accounts of both parties, proved to the satisfaction of the court, does not exceed one thousand dollars.

4. In an action for damages for injury to rights pertaining to the person, or to personal or real property, or

for the conversion of personal property, if the damages claimed do not exceed five hundred dollars.

5. In an action for a penalty not exceeding five hundred dollars.

6. In an action upon a constable's or other bond for the payment of money not exceeding five hundred dollars though the penalty exceed that sum, the judgment to be given for the sum actually due. Where payments are to be made by installments, an action may be brought for each installment as it becomes due.

7. In action upon a surety bond taken by said court when the penalty or amount claimed does not exceed five hundred dollars.

8. In an action upon a judgment rendered in a court of a Justice of the Peace, or in the Municipal Court of Buffalo, where such action is not prohibited by the provisions of the Code of Civil Procedure.

9. To take and enter judgments on the confession of a defendant, when the amount confessed shall not exceed five hundred dollars, in the manner prescribed by sections three thousand and ten, three thousand and eleven, and three thousand and twelve of the Code of Civil Procedure.

10. In an action for damages for fraud in the sale, purchase, or exchange of personal property, if the damages claimed do not exceed five hundred dollars.

11. In an action to recover the possession of personal property claimed, the value of which, as stated in the affidavit of the plaintiff, shall not exceed five hundred dollars, the same proceedings to be had as are provided by law to be had in the justices' court.

12. In summary proceedings under title two, chapter seventeen, of the Code of Civil Procedure, to recover possession of land, and to remove tenants and others, the process to be made returnable before said court by its proper title. Where the proceeding is brought for

the non-payment of rent, the court must specify the amount of rent due and unpaid to the petitioner, if any, at the time of the commencement of the proceedings, in its final order, and likewise the hour of the entry of such order, and no warrant for the removal of the tenant shall issue until after the expiration of twenty-four hours after the entry of such final order.

13. In actions or proceedings under the statute for the enforcement of the liens of mechanics and others, where the amount of the lien does not exceed the sum of five hundred dollars, the same proceedings to be had as are provided by law to be had in justices' courts. The court shall also have jurisdiction in an action commenced for the recovery of a fine or penalty for the violation of an ordinance of the city, and in an action or proceeding instituted for the punishment of any person for the offense of violating any such ordinance.

14. In action commenced by an attachment of property, as now provided by statute, if the debt or damage claimed do not exceed five hundred dollars.

15. In litigated actions or proceedings, it shall also have power to make such rules and regulations for the trial, adjournment, or other disposition of such actions or proceedings as, in its discretion, shall seem just and proper, and not otherwise provided for by law.

Thus amended by L. 1894, c. 691, Sec. 2, and L. 1898, c. 101, Sec. 1.

§ 457. Process shall be made returnable before the court by its proper title, and shall be signed by a judge, or any clerk of the court. Either of the judges may hold the court and may hear, try, and determine any case or proceedings brought therein, where there is no demand for a jury, or preside at a trial by jury. The process, pleadings, practice, trial by the court or by jury, judgment by action or confession and proceedings thereon shall be the same as are now provided by law for justices' courts, except as otherwise provided in this act. The provisions

of chapter five hundred and five of the laws of eighteen hundred and eighty-nine shall not apply to this court. The provisions of sections twenty-nine hundred and ninety to twenty-nine hundred and ninety-seven, inclusive, of the Code of Civil Procedure, as they existed at the time of the passage of chapter five hundred and five of the laws of eighteen hundred and eighty-nine, shall remain in full force and be applicable to this court. In an action brought in said court, a jury trial shall be waived unless a jury shall be called at the time when issue is joined or upon the first adjourned day of the same, and a sufficient sum of money to pay for the venire and conducting and paying such jury shall be deposited with a clerk at the time of making such call. Where a jury trial is had the court is vested with the same powers before a verdict is rendered as are conferred by law upon the Supreme Court in the trial of an action before it. In cases where the defendant is required by law to give bail on application for an adjournment, the amount of the penalty of the bond shall be fixed by the court, but shall not in any case exceed six hundred dollars. Appeals may be had from judgments of said court to the Supreme Court, Erie County, in the same cases, in the same manner, and with like effect as appeals are now had by law to the County Court from judgments obtained in justices' courts, except where an undertaking has been given it shall not be necessary, when such appeal is taken, to deposit with the clerk of said court the statutory costs provided for by this act, and except that in case of an appeal where a new trial is not demanded the appellant shall have the right to appeal to the Special Term or the Appellate Division of said Supreme Court upon complying with the rules of said courts but shall specify his election in the notice of appeal. An appeal may be taken from a judgment of the Special Tterm to the Appellate Division. But the appellate court may, in its discretion, set aside the judgment appealed from, or stay proceedings thereunder, and by order direct a new trial before said Munici-

pal Court at such a time specified in said order, and upon such terms as it deems proper. Upon such appeal the appellant, upon reversal, shall include in his bill of costs, and the clerk of the appellate court shall tax the costs and disbursements that he would have been entitled to in this court had the judgment in this court been in his favor, in addition to the costs provided for by the Code of Civil Procedure, and shall be entitled to include the same in his judgment. The Municipal Court shall not have cognizance of any action where the title to real property shall come in question; but where such question arises the pleadings and practice shall be the same as now provided by law for justices' courts in like cases.

Thus amended by L. 1893, c. 245, Sec. 2; L. 1894, c. 691, Sec. 3; L. 1895, c. 805, Sec. 33, and L. 1898, c. 101, Sec. 2.

§ 458. Any clerk of the court on the demand of a party in whose favor judgment shall have been rendered shall give a transcript thereof, stating the names of the parties, plaintiff and defendant, the date of the rendition of the judgment, in whose favor rendered, the amount thereof, the date of issue of such transcript, the name of the attorney, if any, who appeared for the party in whose favor the judgment was rendered, which may be filed and docketed in the office of the Clerk of Erie County; the time of the receipt of the transcript by said last-named clerk shall be noted thereon and entered in his docket, and from that time the judgment shall be a judgment of the County Court. Such attorney shall thereafter have the same power and authority to cancel and discharge such judgment that is now vested in attorneys where a judgment is recovered in a court of record. A certified transcript of such judgment may be filed and docketed in the clerk's office of any other county, and with like effect in every respect as in the county where the judgment was rendered, except that it shall be a lien only from the time of filing and docketing the transcript.

But no such judgment for a sum less than twenty-five dollars exclusive of costs, shall be a lien upon or enforced against real property. The pleadings shall be (1) the complaint by the plaintiff, and (2) the answer by the defendant. The pleadings shall be oral or in writing. If oral, the substance thereof shall be entered in the docket of the court; if in writing, they shall be subscribed by the party or his attorney, and shall be filed, and a reference to them shall be made in the docket, but such pleadings need not be verified except as hereinafter provided. If a party appears by an attorney-at-law, the pleadings of such party shall be in writing unless the court shall otherwise direct. The complaint shall state, in a plain and direct manner, the facts constituting the cause of action. The answer may contain a denial of the complaint, or of any part thereof and also a notice, in a plain and direct manner, of any facts constituting a defense or counterclaim. Either party may demur to any pleading of his adversary, or any part thereof, when it is not sufficiently explicit to enable him to understand it, or if it contains no cause of action or defense, although it be taken as true. If the court deems the objection well founded, it shall order the pleadings to be amended, and if the party who interposes it refuses to amend, the defective pleadings shall be disregarded. In case a defendant does not appear and answer the plaintiff cannot recover, except as otherwise provided in sections four hundred and fifty-nine and four hundred and sixty of this act, without proving his case. In an action or defense founded upon an account or instrument for the payment of money only, it shall be sufficient, except as otherwise provided in sections four hundred and fifty-nine and four hundred and sixty of this act, for the party to deliver the account or instrument to the court, and to state that there is due to him thereon from the adverse party a specified sum, which he claims to recover or set off. A variance between the proof on the trial and the allegations in the pleadings shall be disregarded as im-

material unless the court shall be satisfied that the adverse party has been misled to his prejudice thereby. The pleadings may be amended at any time before or during the trial, or upon appeal, when, by such amendment, substantial justice will be promoted. If the amendment be made after the joining of issue, and it be made to appear to the satisfaction of the court, by oath, that an adjournment is necessary to the adverse party in consequence of such an amendment, an adjournment shall be granted. The court may also, in its discretion, require as a condition of amendment, the payment of costs to the adverse party. Execution may be issued on a judgment heretofore or hereafter rendered at any time within five years after the rendition thereof, and shall be returned within sixty days after it is issued. If the judgment be docketed with the County Clerk, the execution shall be issued by him to the sheriff of the county, and have the same effect, and be executed in the same manner as other executions and judgments of the County Court. The Municipal Court may, at the joining of issue, require either party, at the request of the other, at that or some other specified time, to exhibit the items of his account or demand, or state the nature thereof, as far as may be in his power, and in case of his default preclude him from giving evidence of such part thereof as shall not have been so exhibited or stated. The defendant may, on the return day of process, and before answering, make an offer to allow judgment to be taken against him for an amount to be stated in such offer, with costs, which offer the court shall at once enter in its minutes. The plaintiff shall thereupon and before any proceedings shall be had in the action, determine whether he will accept or reject such offer. If he accepts the offer, the court shall enter such acceptance in its minutes, and judgment shall be rendered accordingly. If the plaintiff shall not accept said offer and shall fail to obtain judgment for a greater amount, exclusive of costs, than has been specified in the offer, he shall not recover costs, but

shall pay to the defendant his costs accruing subsequent to the offer. Section twenty-eight hundred and ninety-three of the Code of Civil Procedure shall not apply to actions or proceedings in said court, but every action and proceeding brought therein shall be called at the time specified in the mandate or process by which it is commenced, or as soon thereafter as the business of the court will permit. The authority of any attorney or counselor of the Supreme Court who shall appear for any party shall be presumed, and it shall not be necessary for him to prove his authority to appear or act for a party in said court. The forms of action, parties to action, the rules of evidence, the times of commencing the actions, and the service of process upon corporations, as established by the Code of Civil Procedure, shall govern the practice in this court. The court shall also have the power to adjourn any case or proceeding before it, upon such terms as to it may seem just, upon application therefor, where it is made to appear to the satisfaction of the court, by affidavit, that the attorney for the party applying for such adjournment is actually engaged in the trial or argument of a case in a court of record, or actually confined by reason of illness, and that such attorney has had the sole charge and management of the case or proceeding in which the application is made, and likewise adjourn upon proof by affidavit of such illness either of the plaintiff or defendant, or any necessary or material witness in behalf of either plaintiff or defendant; and likewise adjourn any such case or proceeding without appearances where all the parties thereto are represented by attorneys, and such attorneys file with the court a stipulation in writing, stating the time to which said action or proceeding is adjourned, and signed by them and each of them. In an action brought in this court by domestic servant to recover for services performed by her, or by a common or unskilled laborer, having a family dependent upon him for support, for wages due him, if the plaintiff recovers a judgment for a sum not exceeding twenty-five

dollars, exclusive of costs, no property of the defendant is exempt from levy and sale by virtue of an execution against property issued thereupon, and if such an execution is returned wholly or partly unsatisfied, the clerk must, upon the application of the plaintiff, and the order of the judge of said court, issue an execution against the person of the defendant for the sum remaining uncollected. A defendant arrested by virtue of an execution so issued against his or her person, must be actually confined in the jail, and is not entitled to the liberties thereof, but he or she must be discharged after having been so confined fifteen days. After his or her discharge an execution against his or her person cannot be issued upon the judgment, but the judgment creditor may enforce judgment against property as if the execution from which the judgment debtor is discharged had been returned without his or her being taken. In an action to recover a sum of money for wages earned only by a domestic servant, or a common or unskilled laborer, as aforesaid, the plaintiff, if entitled to costs, shall recover the sum of five dollars as costs in addition to the costs allowed by section four hundred and sixty-two of this act, but to entitle the plaintiffs to the benefits of this section, it must appear, upon the face of the complaint, or affirmative proof must be made, that the plaintiff has made a personal, just, and reasonable demand for the amount claimed from the defendant, prior to the commencement of such action; and in a case for common or unskilled labor that such family, dependent upon the plaintiff for support, resides within the state of New York, and that such labor was performed within the city of Buffalo. When the employee is the plaintiff in the action, she or he is entitled, upon a settlement thereof, to the full amount of costs which she or he would have recovered if the judgment had been rendered in her or his favor for the sum received by her or him upon the settlement. Where a complaint is served with the summons in such action, and the name of the attorney

for the plaintiff is subscribed to such complaint, a lien for the said amount of costs shall immediately accrue in favor of said attorney, and no settlement between the parties to such action shall defeat his right thereto; and the said attorney shall, upon proof of a settlement beneficial to the plaintiff, be entitled to judgment in said action for said costs, and shall have the same rights for the enforcement and collection thereof as hereinbefore specified. The above provisions in regard to an action brought by a domestic servant shall also apply in an action brought by any female for work done by her, whether the same be done by her in her own home or in the home, place of business, or shop of her employer, and shall likewise apply to any and all mechanics having a family dependent upon them for support, as aforesaid.

Thus amended by L. 1893, c. 245, Sec. 3; L. 1894, c. 691, Sec. 4; L. 1895, c. 805, Sec. 34, and L. 1898, c. 101, Sec. 3.

§ 459. In an action brought in this court arising on contract for the recovery of money only, or upon account, the plaintiff, at the time of issuing the summons, may file with the clerk of the court a written complaint, setting forth in a plain and concise manner the facts or items of account constituting the cause of action, specifying the amount actually due from the defendant to the plaintiff, and for which the plaintiff will demand judgment. Such complaint shall be subscribed by the plaintiff, or his attorney, and shall be verified in the manner prescribed by the Code of Civil Procedure. Said summons and complaint shall be served at the same time by delivering to and leaving with the defendant personally a copy thereof.

Thus amended by L. 1894, c. 691, Sec. 5.

§ 460. In case the defendant appears and answers said complaint, such answer shall be in writing, and subscribed by the defendant, or his attorney, and shall be verified as above provided for the verification of the complaint, and shall contain first, a general or specific

denial of each material allegation of the complaint controverted by the defendant, or of any knowledge or information thereof sufficient to form a belief; second, a plain statement of any new matter constituting a defense or counterclaim. All allegations in a verified complaint not denied by the answer, upon a trial or other determination of the action, shall be taken as admitted by the defendant.

§ 461. In case the defendant fails to answer the complaint, as herein provided, he shall be deemed to have admitted the allegations of the complaint, and the court, upon the filing of the summons and complaint, with the proof of due service thereof, shall forthwith enter judgment for the plaintiff for the amount demanded in the complaint with costs and disbursements, without further proof.

Thus amended by L. 1894, c. 691, Sec. 6.

§ 462. In all actions brought in this court, there shall be allowed by way of indemnity to the plaintiff, if he be the prevailing party, and shall have appeared by an attorney-at-law, the following sums at costs,which shall be included in the judgment:

1. When the damages recovered amount to twenty-five dollars, but do not amount to one hundred dollars, and where actions are for wages, even if the recovery does not amount to twenty-five dollars, the sum of three dollars.

2. When the damages recovered amount to one hundred dollars, but do not amount to two hundred dollars, the sum of five dollars.

3. When the damages recovered amount to two hundred dollars, but do not amount to three hundred dollars, the sum of seven dollars.

4. When the damages recovered amount to three hundred dollars or more, the sum of ten dollars.

5. Where issue has been joined upon a question of fact, there shall be allowed to the plaintiff, in addition to the sums hereinbefore specified, where the damages recovered amount to the sum of fifty dollars, and do not exceed the sum of one hundred dollars, the sum of five dollars; where the damages recovered amount to one hundred dollars, and do not exceed the sum of two hundred dollars, the sum of ten dollars; where the damages recovered exceed the sum of two hundred dollars, the sum of fifteen dollars; and if on a trial of such issue, the defendant prevail, or the action is discontinued or dismissed, he shall be entitled to have judgment rendered against the plaintiff for the amount of the fees and disbursements allowed the defendant by law, and also additional costs as follows: When the plaintiff shall have demanded in his complaint, or sought to obtain upon the trial, judgment against the defendant for fifty dollars or more, but less than one hundred dollars, the sum of eight dollars; when the plaintiff shall have demanded in his complaint, or sought to obtain upon the trial, judgment against the defendant for one hundred dollars or more, but less than two hundred dollars, the sum of fifteen dollars; when the plaintiff shall have demanded in his complaint, or sought to obtain upon the trial, judgment against the defendant for the amount of two hundred dollars, or more, but less than three hundred dollars, the sum of seventeen dollars; when the plaintiff shall have demanded in his complaint, or sought to obtain upon the trial, judgment against the defendant for three hundred dollars or more, the sum of twenty-five dollars. If the action brought by the plaintiff is for a sum less than fifty dollars, and the defendant shall have interposed a counterclaim, and a trial is had thereunder, and the defendant prevails, upon his counterclaim he shall be entitled in addition to the costs and disbursements aforesaid, to additional costs as follows: Where the counterclaim recovered amounts to fifty dollars, and does not exceed the sum of one hundred dollars, the sum of eight dollars;

where the counterclaim recovered amounts to one hundred dollars and does not exceed the sum of two hundred dollars, the sum of fifteen dollars; where the counterclaim recovered amounts to two hundred dollars and does not exceed the sum of three hundred dollars, the sum of seventeen dollars; where the counterclaim recovered exceeds the sum of three hundred dollars, the sum of twenty-five dollars.

6. Where a commission is issued on behalf of the plaintiff or defendant, to the prevailing party the sum of ten dollars, in addition to the fees or disbursements now provided for by the Code of Civil Procedure.

Thus amended by L. 1893, c. 468, Sec. 4; L. 1894, c. 691, Sec. 7, and L. 1898, c. 101, Sec. 4.

§ 463. Judgment shall be rendered forthwith in the Municipal Court of Buffalo in the following cases: Upon the confession of the defendant, non-suit, discontinuance or withdrawal of the action, or the verdict of a jury, and in all cases where a defendant is in custody, at the close of the trial; in all other cases within ten days after the cause shall have been finally submitted, except in cases where all the parties are represented by attorneys, and shall extend the time by stipulation, in which case, within the time mentioned in said stipulation. The clerk or clerks shall enter all judgments rendered in said court in its docket within ten days from the rendition thereof.

Thus amended by L. 1893, c. 245, Sec. 5; L. 1894, c. 691, Sec. 8, and L. 1895, c. 805, Sec. 35.

§ 464. In all actions and proceedings brought in said court, there shall be paid to a clerk thereof, to be deposited as provided in section four hundred and sixty-seven of this act, the following fees: In an action where the amount claimed does not exceed the sum of twenty-five dollars, the sum of twenty-five cents; where the amount claimed exceeds twenty-five dollars, but does not

exceed the sum of fifty dollars, the sum of fifty cents; where the amount exceeds the sum of fifty dollars, but does not exceed the sum of one hundred dollars, the sum of one dollar, and where the amount claimed exceeds the sum of one hundred dollars, the sum of two dollars; in cases where a writ of replevin, attachment, or an order of arrest is issued, the sum of fifty cents in addition thereto; in proceedings for the removal of a tenant, the sum of fifty cents; for drawing a petition for such removal, if drawn by a clerk, the sum of twenty-five cents; for issuing a subpœna in an action or proceeding, the sum of twenty-five cents; for issuing a commission in an action or proceeding, the sum of fifty cents; upon demand of a trial by jury, the sum of five dollars; for the trial of an issue of law, fifty cents; for the trial of an issue of fact, when the time occupied in such trial shall not exceed one day, seventy-five cents, and for each additional day occupied in said trial, the sum of fifty cents; for making a return upon appeal from a judgment, the sum of two dollars, and whenever it shall be necessary, upon such appeal, to make return of the evidence taken upon the trial of the action or proceeding in which said judgment shall have been rendered, and said evidence shall exceed in length fifty folios of one hundred words each, the sum of five cents for each folio of such evidence exceeding fifty, except where evidence has been taken by the official stenographer in which case the official stenographer shall file a transcript of such evidence with the court, which shall form a part of the return, and be furnished without cost, provided such evidence shall not exceed in length fifty folios; should such evidence, however, exceed fifty folios in length, the stenographer shall charge and receive therefor, for his own benefit, from the party demanding such return upon appeal, the sum of five cents for each folio of evidence in excess of the fifty hereinbefore mentioned. In case a person is arrested and brought into court for a violation of a city ordinance, without process, and is adjudged guilty of such violation, there shall be

included in the judgment rendered against such person the sum of one dollar and fifty cents as costs, and if a trial be had the additional fee above specified. In all actions and proceedings brought in this court, except where the city of Buffalo is plaintiff, the fees above specified must be paid to a clerk of the court in advance. Upon proof of the inability to serve a summons or writ because of the defendant therein having died or having removed out of the city, or for any other cause which a judge of the said court may deem sufficient, the said judge may order a return and payment to the plaintiff of the amount paid into said court for said summons or writ, and upon filing said order and the voucher therefor the clerk of said court shall repay said sum or sums to said plaintiff.

Thus amended by L. 1893, c. 245, Sec. 6; L. 1895, c. 805, Sec. 36, and L. 1898, c. 101, Sec. 5.

§ 465. Either of the judges may issue a criminal warrant, upon due complaint, for the arrest of any person charged with crime committed within the city of Buffalo, but such warrant must be signed by the judge hearing the complaint, and made returnable before the Police Justice. Each judge, while sitting as such, shall have power to punish, in a summary manner, any contempt when committed in his immediate view and presence.

§ 466. The court shall have an official seal, to be furnished by the city, on which shall be engraved the words "Municipal Court of Buffalo"—"Seal." The clerk of the court shall have the custody of such seal, and any certificate made by him under his hand and seal of the court of any fact or matter to which, by this act, he shall be entitled to certify, shall be received in evidence in all courts and places, and be of the same force and effect as if the court were a court of record. The court shall have a clerk, one deputy clerk, and such additional special deputy or other clerks as the Common Council of the said city shall authorize, to be appointed by the judges;

such appointments to be in writing and filed with the Clerk of Erie County. The clerk, deputy clerk, and special deputy, and other clerks shall take the usual oath of office, and shall file the same with the County Clerk, and shall hold office during the pleasure of the judges. Each clerk shall give bail for the faithful performance of his duties, in such form, and for such sum, and with such sureties, as shall be approved by the judges, and file the same with the Treasurer of the city. It shall be the duty of the clerk, or in case of sickness, inability or absence on his part, of any of the other clerks, to call the calendar of actions and proceedings pending in said court, and such clerk calling such calendar shall have power to enter judgment in any such action and a final order or judgment of dismissal in any such proceeding in case of default by either party, and shall have power to administer the necessary oath and take proof for that purpose, and shall have power to adjourn any such action or proceeding, in case issue is joined therein, and no question is raised as to the sufficiency of any such issue; but in case any objection is raised to the legality or sufficiency of any summons, warrant, demurrer, petition, precept, answer, or any process, mandate or notice in any such action or proceeding, he shall direct the parties or attorneys to appear before one of the judges of the court, and the judge before whom the said parties or attorneys appear shall dispose of such objection; and shall likewise have power to adjourn any action or proceeding after joinder of issues, where both parties consent to such adjournment. It shall be the duty of the clerks to keep in the docket of the court a complete and accurate record of all processes issued and returned thereon to the court, of all the proceedings in any action or proceeding brought in the court, of all moneys paid into court, or received by them; to keep the seal of the court, and to affix it to the certificate of the transcript of the docket of a judgment, or any other certificate when required so to do, and to file papers so delivered to him for that pur-

pose in any action or proceeding and safely keep them; to authenticate by a certificate of exemplification, as may be required, the records of proceedings of the court, or any other paper appertaining thereto filed with him, and to enter in said docket the judgment and decision of said court. The docket shall be evidence in the courts of this state to the same extent as the docket of a Justice of the Peace. The judges and all clerks of said court shall each have the same power to administer oaths and take acknowledgments as a Justice of the Peace of towns.

Thus amended by L. 1893, c. 245, Sec. 7, and L. 1895, c. 805, Sec. 37.

§ 467. In all actions and proceedings brought in this court, the clerks shall keep an accurate minute of the fees provided for by section four hundred and sixty-four of this act, upon the docket of the court at the time of receiving the same. It shall be the duty of said clerk to pay over the amount thereof, and to file a statement of the items of said fees with such officers of the city of Buffalo, at such times and in such manner as the Common Council of said city shall by ordinance prescribe. And such clerks shall also keep such blanks as may be necessary for keeping the records of the business of said court, and such records shall be kept in such manner as the Common Council shall by ordinance prescribe, but the duties of said clerks shall continue to be discharged in the manner now prescribed by the charter until such time as the Common Council shall duly enact ordinances prescribing the manner in which said duties shall be performed. The salary of such clerks shall not be paid until they have accounted for such fees as prescribed by ordinance, and neither of them shall perform any service for any party except the city until he shall have received the legal fees therefor as fixed by this act.

Thus amended by L. 1893, c. 245, Sec. 8; L. 1895, c. 805, Sec. 38, and L. 1898, c. 101, Sec. 6.

§ 468. Each judge may appoint and at pleasure remove a clerk who shall be a stenographer. The judge making such appointment shall file a certificate of every appointment or removal made by him in the office of the City Clerk. Before entering upon the duties of his office, each clerk and stenographer shall take and subscribe the constitutional oath of office and file the same in the office of the City Clerk. It shall be the duty of each clerk and stenographer to act as secretary to the judge appointing him, perform such other duties of a confidential nature as he may be directed to perform by said judge, and also to act as official stenographer to the court and to take stenographic minutes of the testimony and other proceedings in all cases tried before the court, except when the judges sitting at the trial shall dispense with such services. Each clerk and stenographer shall transcribe fully and at length the minutes of each case so taken by him, in written or printed characters and, when so directed by the court, file the same with the clerk, who shall cause the same to be preserved with other papers in such case, in the office of the clerk, except as provided in section four hundred and sixty-four. Each clerk and stenographer shall also furnish two copies to parties on direction of the court, without cost. Each clerk and stenographer shall preserve the original minutes taken by him in every case, and upon the order of the court file the same with the clerk. Each clerk and stenographer shall deliver to his successor in office all the minutes taken by him which shall not have been filed with the clerk, and shall act in all matters connected with his office in accordance with the directions of the judge appointing him. Each clerk and stenographer may, after he shall have filed in the office of the clerk the transcript of his minutes herein provided for, furnish to anyone applying therefor, a transcript of said minutes, and may charge and receive therefor from the person to whom he shall furnish the same the sum of five cents for

each folio of one hundred words contained in such transcript.

Thus amended by L. 1893, c. 245, Sec. 9, and L. 1904, c. 576, Sec. 1.

§ 469. The Common Council shall designate the place for the holding of the court, and provide suitable rooms and furniture, and necessary blank books, blanks, and stationery for the use of said court, and shall provide for the payment of the salaries of the judges, clerks, and stenographers.

Thus amended by L. 1893, c. 245, Sec. 10, and L. 1895, c. 805, Sec. 39.

§ 470. Except as herein otherwise provided, the Municipal Court shall have the power to open defaults, and set aside judgments and final orders rendered and entered therein, and executions and warrants issued thereon upon such terms as may be just, in a case where a defendant or tenant shall fail to appear on a return day of process or on any adjourned day, where it is shown that manifest injustice has been done, and the defendant satisfactorily excuses his default; but no greater term shall be imposed than the payment of the costs included in the judgment or final order, and the sum of three dollars for opposing the motion. The application therefor shall be founded upon affidavits, and shall be made within twenty days from the entry of such judgment, and within twenty-four hours after the entry of said final order. Upon presentation of such application, the court shall issue an order in such action, returnable in not less than five nor more than eight days, requiring the plaintiff to show cause, if any, why said judgment should not be set aside, and in such proceeding, an order returnable in not less than two nor more than five days, requiring the petitioner to show cause, if any, why said final order should not be set aside. A copy of said order and of the papers upon which the same is granted shall be served

upon the plaintiff, petitioner or his attorney, if one shall have appeared in the action or proceeding, not less than three days prior to the return day thereof, in such action, and in such proceeding, not less than one day. Pending such application and the determination thereof, the court may stay proceedings under any execution which shall have been issued, or stay the issuing of such warrant. When a judgment or final order shall be set aside, the action or proceeding shall proceed as though no judgment or final order had been rendered. In such case where an execution has been issued, and a levy made thereunder the same may, in the discretion of the court, be allowed to stand as security for the satisfaction of any judgment the plaintiff may finally recover. Where a transcript of a judgment of the Municipal Court shall have been filed in a case provided for in section four hundred and fifty-eight of this act, the Supreme Court of Erie County shall have power and authority to open the default and set aside such judgment, in the case above provided, and all proceedings thereunder, and to order a new trial in the Municipal Court upon such terms as may be just. The practice in the Supreme Court upon such application, shall be the same as herein provided for like proceedings in the Municipal Court, except as herein otherwise provided. A justice of the Supreme Court may at chambers issue the order to show cause, returnable at a special term of the said court, and such application may be heard and determined at such special term. Upon application to the Supreme Court the defendant must show that prior to the filing of such transcript no application was made to the Municipal Court for like relief. The Supreme Court, or a justice thereof, may stay proceedings under any execution issued upon said judgment pending such application. The judgment and execution and levy thereunder may be allowed to stand as a security for the satisfaction of any judgment the plaintiff may finally recover, in case a new trial shall be ordered in the Municipal Court. The said Municipal

Court, or either of the judges thereof, shall also have power, in proper cases and in the furtherance of justice, to vacate, modify, and correct judgments rendered in said court, except in a case where an appeal has been taken or a transcript filed in the Erie County Clerk's office.

Thus amended by L. 1894, c. 691, Sec. 9; L. 1895, c. 805, Sec. 40; L. 1898, c. 101, Sec. 7, and L. 1904, c. 576, Sec. 2.

§ 471. The judges of the Municipal Court may appoint from the constables elected from the respective wards of said city, or appointed by the Common Council, such a number thereof as may be required to do the work of this court, and file a certificate thereof with the City Clerk, and may revoke such appointments at pleasure. Such appointments shall be made equally from each of the two political parties. No person shall execute the process of the court except the constables duly appointed, and such other persons as may be deputized in the manner now provided by law; and each of said constables shall have the power conferred by law upon constables of towns for that purpose, and shall be entitled to receive the same fee for his services, to be paid by the party requesting such services; but such constable shall, before serving or executing any such process or mandate, execute and file with the City Clerk a bond with sureties, for the faithful performance of his duties, and for the payment to the person entitled thereto of all sums of money which may come into his hands from any execution of any process delivered to him; the amount of such bond shall be fixed and approved as to its form and sufficiency of the sureties therein by the judges of this court. All actions on such bonds shall be commenced within two years after the cause of action arose.

Thus amended by L. 1895, c. 805, Sec. 41, and L. 1898, c. 82.

§ 472. When the answer of the defendant expressly or by not denying admits a part of the plaintiff's claim in an action brought in this court to be just, the court, upon the plaintiff's motion, may, in its discretion, order that the action be severed; that a judgment be entered for the plaintiff for the part so admitted, and if the plaintiff so elects, that the action be continued with like effect as to the subsequent proceeding as if it had been originally brought for the remainder of the claim. The court must enter in its minutes the time and manner of the plaintiff's election. If the plaintiff elects to continue the action his right to costs upon the judgment is the same as if it was taken in an action brought for only that part of the claim. If the plaintiff does not elect to continue the action costs must be awarded as upon final judgment in any other case. If in an action upon a contract, where the complaint demands judgment for a sum of money only against two or more defendants, jointly or severally liable, any one or more of said defendants fail to answer, and the other defendant or defendants answer, the court shall, on plaintiff's motion, enter judgment against said defaulting defendant or defendants, with costs; and shall continue the said action against said defendant or defendants answering until final judgment, as in any other case.

Thus amended by L. 1895, c. 805, Sec. 42.

Section 473, relating to bonds of constables, was repealed by L. 1895, c. 805, Sec. 43. Section 41 of the same act added provisions regulating these bonds to Section 471 of this Charter.

TITLE XXIII.

SALARIES.

§ 474. The salary of the Aldermen and Councilmen shall be one thousand dollars per year each.

The remainder of this section is omitted because not of present importance. It enumerated and repealed various special acts in force in 1891, fixing the salaries of different city officers, with a

saving clause for the salaries of persons in office when the act took effect. The entire subject of salaries for city employees is now in the control of the Common Council under Section 17, subdivision 1, except as otherwise provided in this Charter.

TITLE XXIV.

GENERAL PROVISIONS.

§ 475. No person elected or appointed to any salaried office under this act shall, during his term of office, hold any other public office whatever, except that of notary public or commissioner of deeds, nor shall he be directly or indirectly interested in any contract to which the city or any department thereof is a party if such contract pertains or in any manner relates to the department in which he may be employed, or has to be voted for or approved by him. If any person holding any salaried office under this act shall accept any other public office, he shall thereby cease to hold his office under this act. No officer shall receive any compensation, perquisite or benefit in any way, except his salary, fixed by law or ordinance, for any service performed, work done, or permit granted under any public authority, except as notary public and commissioner of deeds, and except as in this act otherwise provided.

§ 476. Every city officer required by this act to give a bond or undertaking for the faithful performance of his duties shall execute a bond to the city, in such penalty, and with such sureties as the Common Council will require, conditioned for the faithful performance of his duties, and for the accounting for and payment to the Treasurer of all moneys belonging to the city received by him; and shall, when required by the Common Council, execute and file a new bond or undertaking. He may, in lieu of such bond, give security through any company incorporated to act as surety for others by the laws of this state.

§ 477. Every city officer required to give bonds, and his sureties shall be liable on his official bond for the conduct of his deputy. If said deputy shall be guilty of any misconduct by reason whereof any city officer or the sureties of such officer shall be compelled to pay any moneys upon account of the said official bond, said city officer or such surety or sureties making such payment shall be subrogated to all the rights of the city upon any bond given by said deputy in accordance with the provisions of this act.

§ 478. Every bond and undertaking required by this act, or any ordinance passed thereunder, shall be acknowledged by the parties executing it, and the sureties therein shall justify in the form herein prescribed. A bond or undertaking as prescribed in this act must, where two or more persons execute it, be joint and several in form, and must be accompanied with the affidavit of each surety subjoined thereto to the effect that he is a resident of, and a householder, or a freeholder, within the city, and is worth the amount of the penalty of the bond over all the debts and liabilities which he owes or has incurred, and exclusive of property exempt by law from levy and sale under an execution. But where the penalty of the bond is ten thousand dollars or upwards, the sum in which a surety is required to justify may be made up by the justification of two or more sureties, each in a smaller sum. The certificates of acknowledgment and the affidavits of justification shall be upon the bond or undertaking. No bond or undertaking shall be accepted or filed until approved by the Mayor, and his approval endorsed thereon, or, in his absence or disability, by the Comptroller, except as herein otherwise provided. The Common Council shall have power to provide by ordinance that every bond given for the performance of any contract made by the city shall contain a clause that the person, co-partnership, association or corporation entering into such contract with the city will pay for all materials used and services rendered in the execution of such

contract, and that any person, co-partnership, association or corporation furnishing materials or rendering services in or about the execution of such contract may maintain an action to recover for the same against the obligors in such bond as though said person, co-partnership, association or corporation were therein named, provided such action be brought within one year after the time the cause of action accrued. The obligors in any such bond shall be liable and may be sued accordingly. Notice of the commencement of such action and of all proceedings therein shall be given to the Corporation Counsel, and in default of such notice no recovery shall be had in such action.

Thus amended by L. 1899, c. 577.

The amendment added all beginning with the words "The Common Council shall have power" about the middle of the section.

§ 479. The City Clerk shall record all official bonds at full length, in a book kept by him for that purpose, and, when required, he shall make a certified copy of such records. In case of the loss of any bond, the record thereof, or a certified copy of such record, shall be received in evidence with the same force and effect as the original.

§ 480. The Comptroller, Treasurer, and Overseer of the Poor shall each appoint a deputy, and the Commissioner of Public Works, four deputies, who shall hold their offices during the pleasure of the officer appointing them, and such clerks and subordinates as may be provided for by ordinance. The Deputy Comptroller, Deputy Treasurer, and Deputy Overseer of the Poor shall in the absence or inability of his principal to perform the duties of the office, and during a vacancy therein, perform the duties thereof. Each deputy, before entering upon his office, shall take the oath of office prescribed by the constitution, and give the bond or undertaking prescribed by this act, or by the ordinances of the city.

Thus amended by L. 1901, c. 228, Sec. 16.

The amendment added the provision for the appointment of four deputies by the Commissioner of Public Works; also the clause at the end of the section "or by the ordinances of the city."

§ 481. All city officers and their deputies shall be ex-officio commissioners of deeds, but as such shall not be entitled to receive any fees from the city.

§ 482. Resignation of office, by any person elected under this act, shall be made to the Common Council, subject to its acceptance. Resignation by any person appointed under this act shall be made to the person or body by whom he was appointed.

§ 483. The officer or body authorized to appoint any officer under this act shall fill any vacancy occurring in such office, by appointment for the unexpired term.

§ 484. Each officer elected or appointed under this act, shall hold over until his successor enters upon the office. All appointed officers, unless otherwise provided by law, shall hold office during the pleasure of the person or body by whom they were appointed.

§ 485. Any person elected or appointed under this act to any office or place, who shall, upon the expiration of the term for which he was elected or appointed, or upon his removal from such office or place, refuse to deliver the books, papers, and effects pertaining to the office or place, to his successor or other person having the right to their possession, shall be guilty of a misdemeanor, and may also be proceeded against in the manner provided in article five of title six of chapter five of part one of the Revised Statutes.

§ 486. When the city shall borrow or raise money for any particular purpose, it shall be applied only to that purpose, and every Alderman who shall vote to appropriate it to a different purpose, and every officer who shall knowingly assist in a misappropriation of such money shall be guilty of a misdemeanor, and, on conviction thereof, shall be disqualified from holding any office in the city.

§ 487. The interest earned or accruing upon any money of the city shall belong to the city, and not to any officer thereof.

§ 488. Every officer of the city, and every person employed by the city, or by any officer of the city, who shall lend or convert to his use, or to the use of another, money belonging to the city, shall be guilty of larceny.

§ 489. Any officer who shall willfully neglect his duty shall be guilty of a misdemeanor.

§ 490. The books, documents, maps, rolls,and papers in the office of any city officer shall, at all reasonable times, be open to the inspection and examination of the public. If any officer shall unreasonably refuse to produce and submit to the inspection of any person any such book, document, map, roll, or paper he shall forfeit fifty dollars to the city, to be recovered by action.

§ 491. The city is hereby authorized to issue either registered or coupon bonds, under any law heretofore or hereafter enacted, authorizing the issue of the bonds of the said city, and shall, at the request of the holder of any coupon bonds, whether heretofore or hereafter issued, issue and deliver to the said holder, on the delivery and surrender to the city thereof, registered bonds of equal amount. Such bonds shall be divided into and issued in such amounts as the said holder shall desire, provided that the city shall not be required to issue any bond for a less sum than one thousand dollars; and provided, further, that the bonds so issued shall be payable upon the same terms, and at the same time as the bonds for which they are exchanged. The city shall keep a record of all bonds surrendered for exchange, and by whom surrendered, and of all bonds issued in exchange therefor, and to whom issued, containing the dates, numbers, and the amounts of the said bonds, and a reference to the laws or resolutions under which they were issued. All bonds issued by the said city after the thirtieth day of

June, nineteen hundred and six, shall be free and exempt from taxation except for state and county purposes.

Thus amended by L. 1906, c. 90, Sec. 1

The amendment added the last sentence.

§ 492. Whenever bonds are issued by the city for the purpose of raising money, the Comptroller shall publish a notice in five successive numbers of the official paper, Sundays excepted, and in two other daily papers of the city, stating the amount of bonds to be issued, their rate of interest, and the time of their payment, and that sealed proposals will be received by him until a day specified in the notice, not less than ten days from the first publication thereof, for all or any portion of the bonds issued. Each proposal shall state the amount of the bonds desired, and the price bid for each one hundred dollars thereof. On the day specified in the notice, the Comptroller shall publicly open the proposals and the bonds shall be sold to the person or persons whose bids are most favorable to the city, but no bonds shall be sold at less than their par value. The Comptroller may reject any or all bids received. Nothing in this section contained shall be construed to prevent the Common Council from awarding any bonds at their par value to the Comptroller in trust for any redemption or sinking fund of the city, and as an investment of said redemption or sinking fund of the city, without advertising. And nothing in this section contained shall be construed to prevent the Common Council from awarding any bonds at their par value to the board of trustees of the Firemen's Relief and Pension Fund, the board of trustees of the Public School Teachers' Retirement Fund, or the board of trustees of the Police Pension Fund, and as an investment of any of said funds, without advertising. Where no proposals shall be received, as herein provided, for the par value of bonds, and the accrued interest thereon, after such advertising, the Comptroller may, within sixty days thereafter, award the bonds so advertised to any person for not less than their par value and

accrued interest on receiving and filing in his office a written certificate from the Mayor and Treasurer consenting thereto.

Thus amended by L. 1894, c. 289, Sec. 6, and L. 1906, c. 48, Sec. 1.

The amendment of 1894 added the last sentence. The amendment of 1906 added the sentence before the last, relating to pension funds.

§ 493. Whenever any street or portion of a street, laid out and located by the commissioners of the land office within the south village of Black Rock as known and designated upon the records, surveys, and maps of said commissioners, or appearing upon said records, maps, or surveys, shall be discontinued or contracted as a public highway or street by the authority of the Common Council, the city by its Common Council, may cause to be conveyed to the owners of lands adjacent to the parts of said street which shall have been so discontinued, and to no others, the portions of such street which shall have been discontinued.

§ 494. The printed minutes of the proceedings of each Board of the Common Council, when approved or confirmed by it, and certified by the City Clerk, shall be received by all the courts of this state as a prima facie evidence of such proceedings.

§ 495. The head of each department shall prepare, and on or about the first day of August in each year, except as herein otherwise provided, transmit to the Common Council a report containing a statement of all the financial transactions of the department for the fiscal year immediately preceding, ending June 30th, and showing in detail its condition.

Thus amended by L. 1903, c. 105.

The amendment changed the date of the annual statement from May first to August first, and provided that it should cover the fiscal year, instead of the calendar year, as formerly.

§ 496. No person shall be incompetent to act as judge, justice, commissioner, referee, juror, or witness by

reason of his being a resident or freeholder of the city, in any action or proceeding to which the city is a party, or in which it is interested.

§ 497. The journals of the Common Council, or a copy thereof, certified by the City Clerk, shall be evidence of the proceedings therein set forth.

§ 498. All the records, including all tax and assessment-rolls, documents,and maps required or permitted by law to be filed and kept in any office of the city when certified by the clerk, head or chief of said office, and attested by the Mayor under the seal of the city shall be admitted in evidence in all courts, and shall be presumptive evidence of the facts or proceedings appearing therein.

§ 499. The seal at present used by the city as its corporate seal shall continue to be the seal of the city.

§ 500. Any clerk making a certified copy of any record under his control, for the use of any other person than an officer of the city, shall charge and collect a fee therefor, not exceeding five cents a folio for each paper copied and twenty-five cents for his certificate. Any clerk making such certified copies shall pay weekly to the City Treasurer all fees received by him, and report the same to the Comptroller.

§ 501. It shall not be necessary for the city, in any action or proceeding in which it is a party, to give any bond, undertaking or security on appeal, or to obtain a provisional remedy, or to take or to prevent any other proceeding.

§ 502. Any officer or the member of any board authorized by this act to make any investigation, hear any complaint or conduct any proceedings in the form of a trial, shall have power to administer oaths and issue subpœnas.

§ 503. A majority of the members of any board constituted under this act shall be a quorum for the transaction of any business of the board, unless otherwise provided.

§ 504. In contracting for any work required to be done by the city, a clause shall be inserted that the contractor submitting proposals shall bind himself in the performance of such work not to discriminate either as to workmen or wages against members of labor organizations, or to accept any more than eight hours as a day's work to be performed within nine consecutive hours. Nor shall any man or set of men be employed for more than eight hours in twenty-four consecutive hours except in case of necessity, in which case pay for such labor shall be at the rate of time and one-half for all time in excess of such eight hours.

§ 505. Except for repairs, no patented pavement shall be laid, and no patented article shall be advertised for, contracted for or purchased except under such circumstances that there can be a fair and reasonable opportunity for competition, the conditions to secure which shall be prescribed by the person, board or body authorized to contract for such article so advertised for.

§ 506. All elective officers in office when this act takes effect shall serve out the terms for which they were respectively elected, except in those cases where the offices to which they are elected are abolished by this act. The engineer in office, at the time when this act takes effect, shall discharge the duties imposed upon the city engineer by chapter three hundred and forty-five of the laws of eighteen hundred and eighty-eight, and any acts amendatory thereof, during the term of office for which he was elected, without extra compensation, and from and after the expiration of his term, or earlier, if he should cease to fill the office, his duties thereunder shall devolve upon the chief engineer of the Department of Public Works.

§ 507. All acts or parts of acts inconsistent with this act are hereby repealed; provided, however, that title fifteen of an act entitled, "An act to revise the charter of the city of Buffalo," passed April twenty-eight, eighteen hundred and seventy, being chapter five hundred and nineteen of the laws of eighteen hundred and seventy,

and all acts amending said title and supplementary thereto, shall not be repealed or affected by this act until the first Monday in January, in the year eighteen hundred and ninety-three.

§ 508. This act shall take effect on the first Monday of January, eighteen hundred and ninety-two, except such parts as relate to elections to office, and except title six, title seven, title nine, title seventeen, title twenty, title twenty-two, title twenty-three, section seventy-four and title one as far as it relates to the creation of twenty-five wards in the city only so far as it is necessary to make the election of Aldermen and Supervisors therein at the annual election of eighteen hundred and ninety-one, regular and legal, and as to such parts, titles,and section it shall take effect immediately; and except also as to subdivision one of section two hundred and seventy-one, subdivision two of section two hundred and seventy-three, section two hundred and eighty-five, section two hundred and eighty-eight, section two hundred and eighty-nine, and section two hundred and ninety-seven, which shall take effect on the first Monday in January, in the year eighteen hundred and ninety-three, and except also that no street commissioner shall be elected at the annual election of eighteen hundred and ninety-one, and the Mayor elected at such election shall hold office for the term of three years, and except also that the Common Council shall on or before the first day of October, eighteen hundred and ninety-one, fix the salaries of all officers to be elected under this act at the annual election of eighteen hundred and ninety-one.

§ 509. All proceedings, matters, and things, which were begun, or regarding which any action or preliminary steps had been taken by the city of Buffalo, or its departments, officers, agents or servants, prior to the first Monday in January, eighteen hundred and ninety-two, are hereby ratified and confirmed, and shall be continued, carried on, and completed under the provisions

of this act, the same as if such proceedings, matters, and things were begun and such action and steps had been taken in conformity with the provisions of this act. Proceedings for the levying of taxes and assessments and the collection of the same, and the sale of lands for non-payment of the same, pending and incomplete on the first Monday of January, eighteen hundred and ninety-two, shall be carried on and completed under the provisions of this act. All acts and proceedings of the city of Buffalo, or its departments, officers, agents of servants, regarding or affecting such proceedings, matters, and things since and including the first Monday of January, eighteen hundred and ninety-two, are hereby ratified and confirmed. All acts and proceedings of the city of Buffalo by its officers, agents and servants, and official acts and proceedings of said officers, agents or servants of said city, or any of them, on or subsequent to January first, eighteen hundred and ninety-two, which are not in conformity to, or in compliance with the provisions of this act hereby amended, but which would have been proper and lawful had the act hereby amended not been passed, and all acts of the officers in any department, before the provisions of the act hereby amended applicable to such department were in full operation, are hereby declared to be valid and legal, and are ratified and confirmed. Provided, however, that this act shall not affect any proceeding, matter, or thing, which was begun, or regarding which any action or preliminary steps have been taken by the city of Buffalo, or its departments, officers, agents or servants, or any proceedings for the levying of taxes and assessments, and the collection of the same, concerning which any suit or special proceeding is now pending in any court, but the validity and effect of all said proceedings, matters and things, taxes and assessments, shall be adjudged and determined in said suit and proceedings, as the same would be adjudged if this act had not been passed.

This section added by L. 1892, c. 376.

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